

**PROCEEDINGS AT HEARING
OF
APRIL 12, 2021**

COMMISSIONER AUSTIN F. CULLEN

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April 12, 2021

(Via Videoconference)

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

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

THE COMMISSIONER: Thank you, Madam Registrar.

Yes, Mr. Martland.

MR. MARTLAND: Mr. Commissioner, today and tomorrow we'll be hearing from Dr. Peter German, QC. Certainly as you and all of the participants know, Dr. German is the author of two detailed and lengthy reports addressing money laundering in the province. His work is of obvious relevance to the commission.

And I thought I would say at the outset what I've done in terms of our approach as commission counsel quite deliberately is not attempting any sort of comprehensive review of those lengthy reports. They're already before the commission through inclusion and reference in the terms of reference. What I propose to do is simply to really ask a series of high-level questions which I think will take about two hours of the time today. Then there's quite a significant level of interest on the part of participants

1 and we have time allocations. So long as we
2 have some good compliance with those, I think
3 we're on track to complete this as scheduled in
4 the two-day block that we have.

5 So with that as the first comment, Madam
6 Registrar, if the witness might please be sworn.

7 And perhaps I should also pause to say that,
8 as you'll see on the display, Dr. German's
9 counsel are present as well.

10 THE COMMISSIONER: All right. Thank you,
11 Mr. Martland.

12 **PETER GERMAN, a witness**
13 **called for the**
14 **commission, sworn.**

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

17 THE WITNESS: Yes, it's Peter Maurice German. Peter,
18 P-e-t-e-r, Maurice, M-a-u-r-i-c-e, German,
19 G-e-r-m-a-n.

20 THE REGISTRAR: Thank you.

21 THE COMMISSIONER: I'm sorry, Dr. German, are you
22 testifying in the same room as your counsel?

23 MR. R.R. HIRA: Mr. Commissioner, he is. The way
24 it's set up is Mr. Ryan Hira and I are here, so
25 to speak. Dr. German is at the end of the

1 boardroom table. Well, 6 feet away from us.
2 And when you see us looking that way, all of you
3 are on this big screen. Dr. German has a view
4 of the big screen, but you'll only see me from
5 time to time turn -- looking awkwardly at you.

6 THE COMMISSIONER: I think the -- what I'm
7 experiencing, Mr. Hira, is that when Dr. German
8 is speaking, I'm having you and Mr. Ryan Hira on
9 the screen, not Dr. German. So I'm wondering
10 whether it's possible to shift that around so
11 that I'm seeing Dr. German.

12 MR. MARTLAND: Mr. Commissioner, if I might volunteer
13 this, but Ms. Matters will improve upon it.
14 There's a setting on the upper right hand of the
15 screen on Zoom that will shift from speaker view
16 to gallery view. I wonder if we might do well
17 to take a break to figure it out. I think that
18 the way the setup is for Dr. German, the
19 microphone that picks up Dr. German is connected
20 to Mr. Hira's computer, and so a shift in the
21 settings will take a little bit of work. I
22 don't -- we could either, if you wanted to click
23 to the -- I think it's called gallery view.

24 THE COMMISSIONER: Yeah. No, I can certainly do
25 that, Mr. Martland.

1 MR. MARTLAND: And maybe we -- at some point I may
2 enlist Ms. Matters to shift it. There's a
3 setting where it only displays those who have
4 their cameras on, so that you're not looking at
5 a series of black screens where cameras are off
6 for people.

7 IT SUPPORT: Mr. Hira, could you please mute your
8 computer and unmute Peter German's computer.
9 This way the issue will not be there.

10 MR. MARTLAND: I think the problem is they have a
11 mounted -- they have a high fidelity mic that is
12 mobile that is the source of the audio that will
13 be better quality.

14 MR. R.R. HIRA: So if we mute our computer, we mute
15 Dr. German. It's one mic connected to our
16 computer, but it's placed closer to Dr. German
17 than us. To have two mics will create feedback.
18 We've been through this in some excruciating
19 detail over the course of the last couple of
20 days with commission counsel.

21 THE COMMISSIONER: All right. Well, that's fine.
22 Let's carry on, then.

23 MR. MARTLAND: Thank you. At any point if it's an
24 issue for anyone, I certainly don't mind being
25 interrupted to do a fix.

1 Let me start, please. Madam Registrar, if
2 you could please display the CV for Dr. German.

3 **EXAMINATION BY MR. MARTLAND:**

4 Q And, Dr. German, there's a photo that's an aid,
5 and not that it's very controversial. You
6 recognize that to be your CV; is that correct?

7 A I do.

8 MR. MARTLAND: All right. And I'll ask
9 Mr. Registrar -- sorry, Mr. Commissioner if the
10 CV could please be marked the next exhibit.

11 THE COMMISSIONER: Yes, very well. 831.

12 THE REGISTRAR: Exhibit 831.

13 **EXHIBIT 831: Biography of Peter German**

14 MR. MARTLAND: We can leave the CV on the screen for
15 now, and I'll ask a few fairly quick questions
16 about the witness's background.

17 Q Dr. German, you presently are a consultant with
18 Peter German & Associates and your practice
19 addresses a number of issues, including money
20 laundering and anti-money laundering, policing
21 and corrections and leadership and workplace
22 issues; is that correct?

23 A That's right.

24 Q You're the author of two reports on money
25 laundering. We'll come to those shortly. And

1 in the past a track record of some 30 plus years
2 with the RCMP, the Royal Canadian Mounted
3 Police?

4 A That's correct.

5 Q And through the course of that service, you have
6 served in many capacities, ultimately attaining
7 the second higher rank in the RCMP, as I
8 understand it, the rank of deputy commissioner?

9 A That's correct.

10 Q As we see on the first page of the CV under the
11 summary, there's a number of descriptors there,
12 and I won't read them all, but you're the
13 President of the International Centre For
14 Criminal Law Reform, former Regional Deputy
15 Commissioner Pacific with Correctional Service
16 of Canada, former RCMP Deputy Commissioner
17 responsible for western and northern Canada, a
18 member of the bar in both British Columbia and
19 Ontario, the author of a legal text devoted to
20 proceeds of crime and money laundering and civil
21 forfeiture. You have graduate degrees in
22 political science and law and, among other
23 things, have been a former -- are a former
24 university lecturer, as we go down the page, of
25 relevance to your background related to money

1 laundrying.

2 MR. MARTLAND: If we could just go up to the bottom
3 of the first page, please, Madam Registrar.

4 Q We see there under "highlights" at the bottom,
5 former Commander of Lower Mainland District
6 Regional Police Service and former Director
7 General, Financial Crime, with the RCMP. Do I
8 have all of that right?

9 A That's all correct. Thank you.

10 Q Okay. If we might go to page 7, please, of the
11 CV. With respect to your educational
12 background, there's a list there of your
13 degrees: a PhD in law from the University of
14 London; a masters from UBC in law, that is; a
15 masters in political science from Simon Fraser
16 University; JD degree from University of New
17 Brunswick and a Bachelor of Arts honours degree
18 from Mount Allison University?

19 A That's correct.

20 Q And just below we see reference to the book that
21 was referred to in summary *Proceeds of Crime and*
22 *Money Laundering*, which has been updated a few
23 times by Carswell -- by you for Carswell.

24 A Yes. It's actually updated six times a year.

25 Q Okay. And at the bottom of the page we also see

1 reference to "Dirty Money - Part 2" and then
2 over to the next page, the Dirty Money Report.
3 And I won't read them all, but there's a list of
4 some dozens of publications that follow in the
5 next number of pages. And likewise, just as
6 Madam Registrar scrolls down past the
7 publications, there's a list of university and
8 college appointments.

9 Maybe if we jump to page 12. We see there
10 in the middle of the page a list of honours and
11 awards. Appointed queen's counsel 2017.
12 Outstanding Service Award from the province.
13 The Queen Elizabeth II Diamond Jubilee
14 Commemorative Medal in 2012. An officer of the
15 Order of Merit of Police Forces from 2008. Do
16 you have all of that right?

17 A That's correct.

18 MR. MARTLAND: Okay. Madam Registrar, I don't need
19 that document displayed further.

20 The two reports that I've referred to are
21 effectively before the commission by virtue of
22 them being referred to in this terms of
23 reference, but I and I expect some colleagues
24 will have questions based on the reports. So,
25 Mr. Commissioner, subject to your preference,

1 I'm proposing to have those marked as exhibits
2 because they'll be used through some
3 questioning.

4 THE COMMISSIONER: Yes. Very well. They could be
5 marked as exhibit 832 and 833, respectively.

6 THE REGISTRAR: Exhibit 832 and 833.

7 **EXHIBIT 832: Dirty Money Report by Peter**
8 **German, March 31, 2018**

9 **EXHIBIT 833: "Dirty Money - Part 2: Turning the**
10 **Tide - An Independent Review of Money Laundering**
11 **in B.C. Real Estate, Luxury Vehicle Sales &**
12 **Horse Racing" by Peter German, March 31, 2019**

13 MR. MARTLAND: Thank you.

14 Q Dr. German, if we could just bring up, please,
15 the first of those -- the first report,
16 exhibit 832. And just to confirm that and give
17 us the timing, the title there "Dirty Money: An
18 Independent Review of Money Laundering in Lower
19 Mainland Casinos Conducted For the Attorney
20 General of British Columbia," with you
21 identified as the author and the date, March of
22 2018. Do I have that right?

23 A Yes, you do.

24 MR. MARTLAND: Let me turn to the second of the
25 reports, Madam Registrar. Exhibit 833, please.

1 Q And here we see "Dirty Money - Part 2" with the
2 subtitle "Turning the Tide - An Independent
3 Review of Money Laundering in BC Real Estate,
4 Luxury Vehicle Sales & Horse Racing," again, by
5 you with a date exactly a year later, March of
6 2019.

7 A That's correct.

8 MR. MARTLAND: All right. And maybe I could go back
9 to the first of the two reports and bring up
10 page 22 of the report. And I'm afraid, Madam
11 Registrar, I don't know that I have the
12 corresponding PDF page.

13 THE REGISTRAR: That's page 22 PDF.

14 MR. MARTLAND: Just bear with me and I'll find my own
15 copy.

16 Q In fact I'm looking at -- it should be page 25
17 or so. That's page 19, so I think it's plus 3.
18 So page 25 of the PDF, please. And, Dr. German,
19 I'm just pausing on that. This is from your
20 first report. The subtitle for -- the title,
21 rather, of chapter 2 is "Mandate, Independence,
22 Scope and Methodology." Is this the chapter
23 where you described in some detail exactly what
24 the process was, what the mandate was and what
25 the work was the way that you approached this

1 first report?

2 A That's correct.

3 Q If we go back in this report, since it's up,
4 just with respect to others that were involved
5 in the report -- I should have better stickies
6 in my own notes and I can't find it right now,
7 but there's reference in here. I think unlike
8 the second report where you list off a number of
9 consultants who were working with you in the
10 preparation for this report, you don't have the
11 same sort of a list of people, but there is
12 reference to Jerome Malysh. Do I have that
13 right?

14 A That is correct.

15 Q Could you please describe the nature of
16 Mr. Malysh's, in a nutshell, background and
17 involvement in helping you working on this first
18 report.

19 A Yes. Mr. Malysh was a subcontractor to me. He
20 is a forensic accountant, a former RCMP officer
21 and someone I've known for quite some time.

22 MR. MARTLAND: Thank you. If we could go to the
23 second report, exhibit 833, please, Madam
24 Registrar. And it's page 3 of the report
25 proper. I think this will be page 3 of the PDF

1 if I've got it right. There we go. I'm getting
2 there.

3 Q Here we see, Dr. German, a header of
4 "Consultants" and then the names, just to read
5 them out yourself, Adam Ross, Archie Alafriz,
6 Calvin Chrustie. Going over to the next page,
7 Dale Lysak, Don Panchuk, Doug LePard, Jafer
8 Aftab, Jerome Malysh again, a little lower on
9 that page, who you just referred to. Over to
10 the next page, Michael Blanchflower and Trevor
11 Dusterhoft. Do I have those names correctly?

12 A Dusterhoft. But yes, that's correct.

13 Q All righty. And with respect to the involvement
14 of those consultants in the second report, it
15 might be useful to get an understanding in a
16 quick way of the nature of where different
17 people helped you on different aspects of the
18 report. If it helps you to go back to the top
19 and start with Mr. Ross, that might be a good
20 way to do it. So maybe --

21 A Sure.

22 Q -- start with Mr. Ross.

23 A Sure. Mr. Ross is a due diligence professional,
24 and as you can see from his CV he has a lot of
25 experience in that realm and particularly with

1 respect to real estate. He has authored various
2 reports and was introduced to me and worked with
3 me on this second Dirty Money review.

4 Q Okay. Let's move down the list. And if you
5 could help us understand the area or topic area
6 in the report that each of these people helped
7 on, that would be great.

8 A Okay. So maybe I could just mention that in
9 terms of Adam Ross, he worked principally on the
10 real estate component of the second report.
11 Archie Alafriz worked on tips that we received
12 as well as on the luxury cars.

13 Did you want me to go into any of their
14 background?

15 Q I think not in the interest of expediency and
16 because you have summarized some of this in the
17 report. Thank you for checking. Yeah.

18 A Then Calvin Chrustie, another ex-RCMP and helped
19 with some tip files.

20 Q Thank you.

21 A Dale Lysak, a former prosecutor, assisted with
22 respect to lawyers and the legal component of
23 the second report.

24 Don Panchuk, former RCMP, also worked with
25 the Law Society of Ontario and also assisted

1 with respect to the law part of this report.

2 Doug LePard, former deputy chief of
3 Vancouver and chief of Metro Vancouver transit
4 police played a fairly pivotal role in both the
5 horse racing chapters and -- or part, I should
6 say -- and the part dealing with luxury cars.

7 Q Thank you.

8 A Jafer Aftab, a former US attorney, worked with
9 us. At the very outset I held a meeting with
10 most, if not all of these individuals to
11 determine how to approach the terms of
12 reference, and he assisted in that initial
13 meeting.

14 Then you see Jerome Malysh again. Jerome
15 was involved in principally the luxury cars and
16 tips, if I recall, on the second report.

17 Q And there we are at the last few names.

18 A Yes. Michael Blanchflower, former prosecutor
19 from Hong Kong, assisted with respect to certain
20 tip files, as did Trevor Dusterhoft. And I
21 should say that we had various team meetings and
22 different members of the team provided input in
23 different areas, but that is roughly how it was
24 divided up.

25 MR. MARTLAND: Thank you. That's useful.

1 Madam Registrar, I don't need the report
2 displayed at this point for the next few
3 questions.

4 Q Dr. German, at any point if you wanted to make
5 reference to either of the reports, don't be shy
6 to let us know. It's easy for our registrar to
7 turn up the report on display.

8 I'll start with this. You were obviously
9 deeply involved in the topic -- you've been
10 involved in addressing money laundering over
11 many years -- it didn't start with your work on
12 these reports -- but in particular during the
13 period of time when you were preparing these two
14 reports, very much immersed in this with respect
15 to the issue of measures to deal with money
16 laundering in the province of British Columbia.

17 So I wonder if you'd be prepared to comment
18 from today's vantage point with the little bit
19 of time that's gone on since your reports were
20 completed what you would say are the key
21 measures that you think should be undertaken at
22 this point.

23 A I think something's occurred because your
24 lawyer's have abandoned you and the sound has
25 gone cold. That's not a good omen. Let's see

1 what ...

2 MR. MARTLAND: Maybe I can suggest this,
3 Mr. Commissioner. There might be a dual purpose
4 here. If we take a brief break we can sort
5 out --

6 MR. R.R. HIRA: I think we've sorted it out.

7 MR. MARTLAND: Oh, good.

8 MR. R.R. HIRA: Dr. German, if -- well, Mr. Martland,
9 if you'd just put that question to Dr. German
10 again. We were just responding to the IT
11 comments that were coming through that the sound
12 was poor.

13 MR. MARTLAND: Okay.

14 MR. R.R. HIRA: Now we've got the mic right in front
15 of Dr. German and hopefully the sound improves a
16 lot.

17 MR. MARTLAND: Okay. Great. Well, can hear you, and
18 I'll let you know if it's an issue. Thank you.

19 Q So without the preface to it, I was asking
20 essentially from today's vantage point what do
21 you identify as being key measures that you
22 would direct the Commissioner to considering and
23 that you think are most important to address
24 money laundering in the province?

25 A Well, thank you. If you look at from a -- are

1 you hearing me okay, Mr. Martland?

2 Q Thank you. Yes.

3 A Obviously a lot of recommendations and findings
4 in Dirty Money 1 and Dirty Money 2, but we're
5 now a number of -- well, three years, I guess,
6 down the road from the first report and two
7 years from the second report, so obviously a lot
8 of things have continued. I suppose you could
9 answer that question -- or I could answer that
10 question in many different ways. You know, the
11 world moves on, things happen, and I think at
12 the end of the day it's really -- if we want to
13 deal with money laundering, we have to look at
14 the big picture of organized crime.

15 Money laundering is the back office of
16 organized crime. Simple as that. There has
17 been in recent decades a move to deal with money
18 laundering as a way to better deal with
19 detecting and dismantling organized crime.
20 Having said that, at the end of the day, it
21 really boils down to political will and I would
22 say bureaucratic will to deal with the issue.
23 And that's not at any one level of government.
24 It's at the federal level, it's at the
25 provincial and to a much lesser but still to a

1 degree municipal.

2 I could probably go on ad nauseam on that
3 topic. And there certainly have been some
4 developments since my reports, certain things
5 have transpired. It really depends where you'd
6 like me to go with that.

7 Q Well, maybe I can pick up on your comment about
8 the political will and have your views on
9 whether there's been or is or remains a lack of
10 will on the part of one or a few levels of
11 government.

12 A That's a really difficult question. The problem
13 that government has is priorities. We've got
14 education. We've got health. There are so many
15 things that government has to deal with, and law
16 enforcement, crime, money laundering is just one
17 more of those issues. So I fully appreciate
18 that for government it's not about this issue
19 and this issue alone as it might be for me, so
20 to speak. So there's always that balance in
21 government.

22 I think we've seen movement in this
23 province that we haven't seen in other
24 provinces. Certainly I think the initiative to
25 commission these reports in the first place

1 showed considerable foresight by the Attorney
2 General. Obviously wanted to make a difference,
3 wanted to inquire into this area. We haven't
4 seen that in other provinces with, I would say,
5 the possible exception of Quebec, which had also
6 done a lot of work and I refer there to the
7 Charbonneau Commission and everything
8 surrounding it. That's at the provincial level.
9 Which isn't to say that the others have
10 neglected it. It's -- as I say, it's a matter
11 of priorities.

12 At the federal level, since my reports, we
13 do know that the public safety ministers
14 announced certain initiatives in this area, and
15 not necessarily because of my reports. Don't
16 get me wrong. For whatever reasons budget 2019
17 did have various provisions. We see a movement
18 towards beneficial ownership registries. There
19 are a lot of things going on. So I would be
20 really reluctant to say that governments don't
21 have the political will or the bureaucracies
22 don't have the political will. I think at the
23 provincial and federal level we're much more
24 alive to this issue now than before largely
25 because of what we've seen from the provincial

1 government here in this province highlighting
2 this issue.

3 But I think there's a long way to go, and
4 one of the concerns that I would have is that
5 recommendations can get lost. Whether it's
6 recommendations from my reports, whether it's
7 recommendations from your commission, at the end
8 of the day what becomes of them. And we know
9 that governments have a short time frame. We
10 elect governments every five years or less. So
11 bureaucracies continue, though, and oftentimes
12 recommendations go into the bureaucracy writ
13 large and they come out quite different than
14 they went in. Sometimes for good reasons,
15 sometimes maybe not.

16 So I don't know if it's an adequate answer,
17 but like I say we could go on at some length on
18 that.

19 Q Well, I appreciate it was a very high-level
20 question, and I think a high-level answer for
21 present purposes is fine.

22 What I'd like to ask you next is if you
23 could offer your views as what you see as being
24 distinctive or unusual about money laundering
25 activity in this province as compared to other

1 parts of the world.

2 A Yeah. I think it really is a reflection on our
3 environment, and that would be the same wherever
4 you go. The environment in, let's say, Toronto
5 is different than here to a certain degree.
6 Similarly Quebec and so forth. But here in
7 British Columbia, in Vancouver, we are uniquely
8 situated in terms of our geopolitical setup. We
9 are in many ways an Asian-looking city. We look
10 to Asia, our commerce is to Asia as well as to
11 the United States. Everybody in the Lower
12 Mainland lives within probably an hour of the US
13 border. There's a lot of north/south movement
14 and including to Mexico these days with visa
15 access being what it is. And all of this is
16 COVID aside, if you get my drift.

17 So you've got a large port, you've got a
18 large airport, among the largest on the western
19 seaboard of North America. We are a high-tech
20 location here in Vancouver and British Columbia.
21 We have excellent financial systems. We have
22 excellent communication systems. We're really
23 well situated and we're -- it's a prosperous
24 economy. We also have a really ethnically
25 diverse province and city, which is really, I

1 think, one of the things that makes it so
2 appealing to live here in terms of culture,
3 ethnicity and everything else. We are quite
4 unique.

5 On the flip side of this, organized crime
6 sees all these reasons as well. All of those
7 issues that make this a great place to live also
8 make it quite attractive, in my opinion, to
9 organized crime. I could go over each of those
10 again, but you can sort of put it together.
11 It's the easy access in terms of ports,
12 airports, United States, Asia. We're very well
13 situated.

14 Add to that the fact that we have a very
15 fair and, I would say, small L liberal criminal
16 justice system. We don't lock people up and
17 throw the key away. I spent four years as a
18 Deputy Commissioner of federal corrections. I'm
19 quite familiar with our penitentiary system, and
20 we have a parole system that is top class in
21 terms of the world. But for organized crime,
22 the downside isn't all that great if you end up
23 going to jail. You're probably not going to go
24 for long, and that's a reality.

25 We've also made it very difficult in recent

1 years -- and this isn't the work of any one
2 person but through a collection of
3 circumstances -- very difficult to investigate
4 financial crime in this country. It's not easy,
5 and I'm happy to go into that in some detail.

6 So you put that together and then add to it
7 that we have a fairly, again, small L liberal
8 culture when it comes to drug use. A lot of
9 drugs are consumed in this part of the country,
10 not to say that they aren't consumed elsewhere
11 as well, but it just makes us very attractive to
12 organized crime. And where you have organized
13 crime, you have money laundering.

14 Q Thank you.

15 A So in a nutshell.

16 Q I wonder if I could pick up on your comment
17 about the, I suppose, more lenient or lower
18 range of sentences imposed through our criminal
19 justice process. I assume that contrasts with
20 other parts of the world where there might be
21 heftier kinds of jail sentences. Do you think
22 the concept of general deterrence that people
23 will be deterred when they see the sentences go
24 up is more applicable when it comes to money
25 laundering and financial crime than other maybe

1 more sporadic or impulsive crimes?

2 A Well, I don't pretend to be a [indiscernible].
3 So in terms of the effect of sentencing itself,
4 certainly in terms of sentencing in this country
5 we don't see the lengthy sentences that you see
6 with the federal guidelines in the United
7 States, but I think that's just one part of it.
8 There are so many different components of how
9 our system works that make it very difficult not
10 only to get someone into the courts let alone
11 sentence them. I think our problem right now is
12 getting organized criminals and money launderers
13 into the courts. Sanctions and sentencing
14 after -- is almost after the fact. We're not
15 there yet.

16 Q I suppose to be deterrent it's not simply the
17 quantum, it's the fact of the charges being
18 brought and a conviction achieved before you
19 even get to sentencing.

20 A Correct.

21 Q I'd like to pick up on one other thing you said
22 with respect to the challenge in investigating
23 financial crime without taking you on a
24 40-minute jog down that path. Do you have a few
25 thoughts, though, maybe in a quicker way that

1 would help us understand why do you say that
2 it's hard to investigate financial crime?

3 A Yeah. Well, I'm the first person to say that,
4 you know, I'm really glad that we have a *Charter*
5 *of Rights* in this country. It's done amazing
6 things for us as Canadians, and it certainly
7 reflects our society.

8 However, there's another side to that, and
9 that is that there are certain lines of cases
10 which have made it very difficult for lengthy --
11 well, for criminal investigations, for financial
12 crime investigations. I would say the
13 *Stinchcombe* line of cases -- *Stinchcombe* itself,
14 quite frankly, you know, I think is a great
15 case. The ability for a person charged with a
16 crime to see what they're accused of is
17 important. But over the years *Stinchcombe* has
18 broadened and broadened. And now we have
19 *Jordan*, which has essentially put a time frame
20 on that period after charge.

21 So you've got financial crime cases that
22 take a long time to investigate. You have
23 *Stinchcombe* disclosure, which takes a long time
24 after charge approval, and that you're all of a
25 sudden met with *Jordan*. So over time what we're

1 seeing is these cases are getting squished in
2 the middle, and I think law enforcement in many
3 cases is saying it's just not worth their
4 while because even if we get to court --

5 MS. HENEIN: I have an objection, Mr. Commissioner.

6 THE COMMISSIONER: Yes, Ms. Henein.

7 MS. HENEIN: Thank you. The evidence we're hearing
8 from Dr. German is not within the scope of his
9 expertise. It is beyond anecdotal, and
10 incorrect, quite frankly, to be making these
11 sorts of statements in a public context and
12 leaving them unassailed. The comments about
13 *Stinchcombe* being an impact or *Jordan* being an
14 impact on deterring the investigation of any
15 crime, much less this sort of crime, is not only
16 an area that this witness has no expertise in,
17 it's just wrong.

18 And in my respectful submission commission
19 counsel should focus their question not on a
20 ranging -- a wide-ranging indictment of the
21 criminal justice system and whether the *Charter*
22 has impacted these sorts of investigations or
23 whether any particular case has, because as you
24 know, those types of questions are far more
25 complicated and sophisticated than what's being

1 said, and to focus Dr. German on his true area
2 of expertise, which is the scope of his report.

3 THE COMMISSIONER: All right. Thank you, Ms. Henein.
4 Mr. Martland.

5 MR. MARTLAND: Mr. Commissioner, my response would be
6 that of course the question was why is it
7 challenging to investigate financial crime. I
8 would point out, of course, where I take the
9 point about expertise, except that we're not in
10 a trial setting with the strictures of *Mohan* and
11 *Abbey*, et cetera, the *Public Inquiry Act*,
12 section 14, permits for a more flexible
13 reception of opinion evidence and perspectives,
14 and I think that's consistent with our past
15 practice.

16 So personally I don't see the same
17 difficulty with it. I don't propose, though, to
18 spend -- I think I take something of the point
19 that's been raised. I don't propose to be
20 asking more questions that pick up on
21 *Stinchcombe* or *Jordan*, and we'd be moving to a
22 different subject, in any event.

23 THE COMMISSIONER: All right. Well --

24 MR. R.R. HIRA: I just add that my client has
25 practiced law for 39 years and has investigated

1 these crimes, so the foundation for his comments
2 are clear and supported by his knowledge level.

3 THE COMMISSIONER: All right. Well, I think the
4 point is well taken on all sides that certainly
5 part of the environment of investigating
6 commercial crime and money laundering and things
7 like that is the legal regime which governs both
8 the degree of disclosure and the speed with
9 which trials must proceed through the system.
10 And I think at a very high level that is
11 somewhat cogent to the commission's mandate, but
12 it's well beyond my mandate to make
13 recommendations about the impact of *Stinchcombe*
14 or the impact of *Jordan* or cases such as that.

15 So I think, Mr. Martland, having touched on
16 the issue, and it's been touched on by witnesses
17 other than Dr. German, it's a fair comment to
18 make, but I don't think we need spend a great
19 deal more time on it.

20 MR. MARTLAND: Thank you.

21 Q Dr. German, what I propose to do is to move into
22 the challenging question of quantification,
23 which is a term that's sometimes used to
24 describe efforts or attempts to determine or get
25 the measure of the extent and volume, I suppose,

1 of money laundering activity in the province.
2 Is that process of attempting to quantify money
3 laundering something that you've ever tried to
4 do, and do you have views on how to go about
5 doing it or what the best route might be if one
6 were trying to quantify money laundering?

7 A Well, I wasn't asked to do it in these reports,
8 and I am not an expert when it comes to data and
9 attempting to answer those types of questions.
10 From my work and research it appears that it is
11 an issue that plagues academics around the
12 world, quite frankly, trying to quantify this
13 issue. And most people fall back on the
14 recommendations of the IMF and similar bodies in
15 terms of what proportion of the gross national
16 product is in fact the result of dirty money, so
17 to speak.

18 So I have not been asked to quantify it in
19 my reports. And although I must say that I did
20 try to chase down that issue in the second
21 report as there were some media -- there was
22 media reports of the amount of dirty money going
23 through the casinos and in the real estate
24 industry, and so we tried to chase down the
25 source of that.

1 initiatives because as we found in our reports
2 one of the huge issues in real estate is opaque
3 ownership. So the more transparency you have on
4 the topic, the better. And so that is with
5 respect to both corporate ownership and the
6 ownership of real property, some of which is
7 also owned by corporations.

8 In terms of how one constructs a beneficial
9 ownership registry, the only thing I would add
10 is that, again, the discourse is whether they
11 should be public or private. I tend to think
12 public is the way to go. There may have to be
13 some caveats on that, but with a public registry
14 there is, again, transparency and access by
15 journalists and others to the information. And
16 the other point, which, again, is part of the
17 international discourse, is that of, in lay,
18 garbage in, garbage out. If you don't verify
19 the information coming into the registry,
20 there's not much use in having it. So there has
21 to be some form of verification of the
22 information so people that do access it are able
23 to rely on that information and you have true
24 transparency.

25 Q With respect to real estate -- and again,

1 appreciating this is a high level kind of a
2 question -- do you have views on what you see as
3 the most effective tools or measures that can
4 address the money laundering activity in the
5 real estate sector?

6 A Well, I think we probably have just hit on it
7 right there. It really is transparency. And
8 when we did our second report, we looked at the
9 various, as I would say, red flags and
10 indicators of money laundering in real estate.
11 And if you were to look at these red flags in
12 and of themselves, they may not reflect anything
13 wrong. You know, multiple purchases by the same
14 individual, purchases with or without mortgages,
15 mortgages with different -- unusual interest
16 rates, mortgages that are discharged quickly.

17 There are all of these different indicators
18 which don't in and of themselves necessarily
19 mean much, but when you put a number of them
20 together and you see the same scenario time and
21 time again or in a particular area of the
22 community, then you have to start to wonder.
23 And it almost always goes back to transparency
24 of ownership, who is doing what, and if you have
25 that transparency.

1 Now, you don't necessarily need a
2 beneficial ownership registry, in my opinion,
3 for that. I think that's the ideal way to go.
4 But there are things that can be done in a stop
5 gap until you get a beneficial ownership
6 registry, i.e. land title data. And we also saw
7 issues with that in this province. We have a
8 very sophisticated land title authority.

9 They've got all sorts of, you know, state of
10 the art software and so forth, but a lot of the
11 forms that are used, a lot of the historical
12 data is from the days of the horse and buggies,
13 so to speak, and a lot of fill in the planks, a
14 lack of down-down menus and those sorts of
15 things which make it very difficult for
16 sophisticated modern software systems to use
17 this data. So there are lots of things that can
18 be done to clean up data and so forth. Ideally
19 I think a beneficial ownership registry shares
20 that transparency you want.

21 Q And maybe just to pick up on the point about the
22 drop-down menu. Does that describe in part that
23 you could have 20 different people with the same
24 job who give slightly different descriptions of
25 their, let's say, employment or something else

1 Q You describe money laundering activity or maybe
2 actors as being agile enough to switch from one
3 sector or line of activity to another. Could
4 you just help us understand what that describes
5 and what it means from the point of view of
6 regulators and authorities.

7 A Sure. Well, I mean, organized crime is all
8 about making a profit. The only reason
9 organized crime exists is because of the dollars
10 to be gained from that activity. So it's quite
11 different from public order offences or sexual
12 offences and so forth. We're talking here about
13 making money.

14 So if you restrict one silo, if you restrict
15 one commodity, organized crime will move
16 somewhere else. So if we take, for example, the
17 casinos. If we tighten the casinos up to the
18 point that we've squeezed a good proportion of
19 organized crime out of there, one can expect
20 that the dirty money is going to go somewhere
21 else. Organized crime is not just going to
22 close up shop and go away. The money is going
23 to go somewhere else.

24 So you have this -- we sort of refer to it
25 as a whack-a-mole effect in that you deal with

1 the casinos but then you might have to deal with
2 it in cryptocurrency. You may have to deal with
3 it in money service businesses. You may have to
4 deal with it in luxury cars, real estate and so
5 forth. So, again, holistic approaches are
6 probably what's required at the end of the day.

7 Q As you described that, it sounds like your view
8 is that some of these organized crime actors are
9 both opportunistic in looking for the best
10 avenue to go about their activity, but also
11 fairly sophisticated to be able to identify
12 where there are weaknesses or where conversely
13 maybe things are tightening up and it's not
14 going to be as easy to go on doing that in a
15 certain sector.

16 A Currently -- this is not simply me talking.
17 This is what the literature will tell you, and
18 there's a lot of discourse on this in terms of
19 organized crime and being commodity driven and
20 its resilience and so forth. There's -- a lot
21 has be written on this topic.

22 MR. MARTLAND: Mr. Commissioner, I don't need the
23 document -- or, Madam Registrar, we don't need
24 this document displayed for the next few
25 questions, I don't think.

1 Q I'd like to turn, please, to the topic of legal
2 services, so a lawyer in particular, the issue
3 about lawyer involvement, witting or unwitting,
4 I suppose, in money laundering activity. Would
5 you like to comment on issues of concern that
6 relate to the legal services sector and in
7 particular trust accounts and lawyers accepting
8 cash?

9 A Thank you. We did touch on, as I indicated
10 earlier, the legal profession as well as
11 notaries as well as other professions, but we
12 certainly looked at the legal profession in the
13 second report. And I would, you know, open that
14 by saying that, as you indicated, I'm a member
15 of the BC bar, I'm quite familiar with what the
16 BC bar has been doing here and in fact I believe
17 the BC bar has really been leading the way in
18 many respects in dealing with anti-money
19 laundering. And I believe we also stated that
20 in the report.

21 The issue for me is not about particular
22 lawyers or particular law societies, it's really
23 about two issues. It is about lawyer trust
24 accounts and the fact that they are opaque to
25 outside eyes, and I understand why. Obviously

1 solicitor-client privilege. And I have no issue
2 with that whatsoever.

3 The second issue is the no-cash rule, which
4 is not really a no-cash rule because although
5 cash has been restricted greatly for lawyers,
6 you could still use cash or receive cash for
7 fees, expenses and bail, as I understand it.

8 So those are really the two issues. I think
9 the bigger of them is trust accounts. And, you
10 know, to use the Law Society of BC as an
11 example, the law society here has in recent
12 years been looking very closely at lawyers
13 allowing money into their trust accounts which
14 is not there for a bona fide legal purpose.
15 Lawyers can be duped like other professions.
16 And it's really in my estimation in the best
17 interests of the legal profession to be as tight
18 as possible when it comes to the control of
19 trust accounts.

20 You see in other countries reporting, and
21 we know it was in this country, initially under
22 the proceeds of crime statutory structure that
23 was developed in 2000, that lawyers were part of
24 the reporting regime. We have the Federation of
25 Law Societies case which went to the Supreme

1 Court of Canada and struck out that reporting.
2 The Supreme Court of Canada essentially referred
3 the matter back to the federal government.

4 So we do not have reporting now by lawyers
5 with respect to their trust accounts, but we do
6 see that in other countries. And other
7 countries have dealt with the issue of
8 solicitor-client privilege to protect it and at
9 the same time to require reporting. And
10 oftentimes the avenue taken has been third-party
11 reporting to a third-party professional body of
12 one sort or another or professional agency.

13 So you see those workarounds, so to speak,
14 so satisfy the interest in preventing the use of
15 lawyer trust accounts by organized but at the
16 same time to protect the sanctity of
17 solicitor-client privilege.

18 Q Just to put that in a Canadian context. When
19 you speak about third-party reporting, does
20 that -- is that to be distinguished from
21 reporting to the police, to FINTRAC, to --
22 directly to the government? Is that what you're
23 describing?

24 A Well, I'm somewhat doubtful that we will see
25 lawyers reporting to FINTRAC or certainly not to

1 law enforcement directly as part of our proceeds
2 of crime legislation. My personal view is that
3 whatever workaround is found will probably
4 require some form of third-party reporting. And
5 that could be to the law society itself if the
6 law society wanted to take on the role of being
7 the recipient of information with respect to
8 trust accounts and be that third party. Or it
9 could be a separate body as you see in England
10 where there is an agency that deals with
11 professional societies that are required to
12 report.

13 Q I'd like to ask about the topic of information
14 sharing and, again, appreciating it's broad
15 here. But it seems to me there might be a few
16 different ways to think about information
17 sharing in relation to efforts to come to grips
18 with money laundering, first as between law
19 enforcement regulators, agencies and then
20 secondly, more broadly, as between those public
21 or government bodies as well as private bodies,
22 whether that's banks, financial institutions,
23 what have you.

24 Do you have some maybe high-level views with
25 respect to the need for information sharing and

1 also issues that arise on this topic?

2 A Well, certainly from an investigative
3 perspective as a financial crime investigator,
4 privacy constraints definitely arise quite
5 frequently. And privacy concerns, the -- I
6 mean, I don't know if I've mentioned *Jarvis* and
7 *Lane* as cases which have emphasized this point.
8 There's a different between obviously the
9 criminal process and the regulatory process.
10 And whenever you have criminal investigators
11 working with regulatory investigators, you have
12 to obviously be very careful about the flow of
13 information. And we have MOUs and so forth that
14 are used in those situations.

15 Certainly we have access in this country to
16 production orders and search warrants. They are
17 not necessarily easy to obtain, and there are
18 inherent delays it seems with respect to
19 production orders in many cases. They can be
20 very onerous in these investigations.

21 So privacy does arise. And, again, I think
22 we all accept the fact that, you know, we want a
23 degree of privacy over our own lives. It's a
24 matter of finding that balance that allows
25 police to do their job, regulators to do their

1 production orders and search warrants to obtain
2 information which leads to other delays.

3 Q I'm going to ask you next about FINTRAC. To be
4 maybe oversimple, what's your take on FINTRAC?

5 A I've had a lot of dealings through the years
6 with FINTRAC. FINTRAC is our financial
7 intelligence unit in this country. Every
8 country is supposed to have one. Great people
9 working there. Great systems. I was in
10 FINTRAC's offices shortly after it opened in the
11 early 2000s. FINTRAC has the ability to really
12 help law enforcement a lot.

13 The big issue from law enforcement's
14 perspective, or let me say my opinion, is that
15 law enforcement is not inside FINTRAC. And that
16 works in two ways. To be very simple and high
17 level, FINTRAC doesn't necessarily know what the
18 police need on a particular investigation that
19 might be underway in Vancouver, and the police
20 don't necessarily know what FINTRAC has to
21 offer.

22 So if you look at FIUs around the world,
23 they tend to be constructed differently. There
24 tends to be a lot greater access by law
25 enforcement to the data that the FIU has.

1 FinCEN in the United States is a prime example
2 of that. But we don't have that here and you do
3 not have law enforcement working within FINTRAC.
4 And that's largely, again, construction of -- a
5 result of how FINTRAC was constructed, concern
6 over charter issues, privacy issues.

7 I was involved in receiving material from
8 FINTRAC in the early days when I was Lower
9 Mainland commander, and the information in those
10 days was very high level and not terribly useful
11 to us. I think over time my understanding and
12 from what I've seen, it's improved in that law
13 enforcement is aware that FINTRAC exists and
14 they can go to FINTRAC with voluntary
15 information requests, VIRs, and seek information
16 on a particular case. And then of course
17 FINTRAC can check its databases and provide that
18 information. I don't know the exact
19 percentages, but I understand that about 70
20 percent of their work is now VIRs and some 30
21 percent is their own proactive disclosures.

22 It's very difficult for FINTRAC to
23 necessarily know what to give law enforcement
24 and then law enforcement tends to be busy
25 anyway, so it's not as if they're looking for

1 new cases. So where FINTRAC can really help is
2 to bring things together, to draw those
3 connections. But if you don't have a live case
4 underway, you don't even know what connections
5 you're looking for.

6 So at the end of the day, FINTRAC is
7 valuable. It would be much more valuable if law
8 enforcement had access to the information in its
9 data banks in some form. As you see in other
10 countries.

11 Q So you describe it, I hear you saying, sort it's
12 of good people and good systems that are at
13 FINTRAC. It's not a question of people not
14 going about and dealing with their duties and
15 responsibilities, but it seems to be as you
16 describe it a structural problem, if there's a
17 problem.

18 A In my opinion it is a structural issue. And in
19 fact there's a regional office here in Vancouver
20 which has been very helpful to me through the
21 years when I was doing my reports and in other
22 work. And their major job of course is dealing
23 with the audit side of FINTRAC and the
24 compliance side working with reporting entities
25 here. They've also lectured on CLE courses and

1 so forth. So FINTRAC itself, nothing wrong with
2 the people or the systems. It is really the
3 construction.

4 Q Dealing with in particular FINTRAC as it relates
5 to the casinos and gaming sector, do you have
6 any comments beyond what you have said already
7 in your first report about the recommendation
8 that FINTRAC reporting should shift to the
9 gaming service providers, that they be the ones
10 who are the reporting entities under that
11 structure?

12 A I strongly believe that that would be helpful.
13 In fact, most of my recommendations -- I still
14 adhere to what I've said in Dirty Money
15 number 1. I'm happy to go through them.
16 Certainly with respect to that one, what you
17 want, in my respectful opinion, is reporting at
18 the point of sale, so to speak. It's when you
19 see the customer. So the customer comes into
20 the store or comes into the casino, comes in
21 anywhere, to the bank teller, and you see that
22 customer and you ask that customer questions.
23 If it is suspicious, you report it.

24 That doesn't happen here because of the fact
25 that BCLC, the lottery corporation, is the

1 conduct and manage. So they are the ones that
2 submit the Suspicious Transaction Reports to
3 FINTRAC. And they rely on the gaming service
4 providers to give them the raw data. They then
5 look at their systems and move probably the
6 majority of them -- I don't know what
7 percentage -- forward to FINTRAC.

8 I looked at the Ontario model and I quite
9 liked that one which allows you to adhere to the
10 existing arrangement. There the OLG, which is
11 the equivalent of BCLC, Ontario Lottery Gaming
12 Corporation, essentially is a flow-through for
13 reports from the gaming service providers. And
14 they will add information that they are aware of
15 that may supplement an STR. So they'll file
16 what they refer to me as a corporate STR to --
17 along with the STR coming up from the gaming
18 service provider, from the casino.

19 So you've got not only the picture from the
20 point of sale, but you've also got the corporate
21 picture. And it just seems to make good sense.
22 That would allow you to continue with the
23 existing system of the conduct and manage BCLC
24 ultimately being the one that's sending the
25 material forward.

1 If the decision is left to BCLC, then, you
2 know, there is a discretion built into it. And
3 it opens, I think, BCLC to criticism, but it
4 also reduces the number that will flow through.
5 Ultimately it's FINTRAC that's going to have to
6 decide whether these STRs are of use to them or
7 not. So ideally, I think an arrangement can be
8 made, and we've seen there are all sorts of
9 different arrangements across the country in
10 terms of reporting to FINTRAC by casinos because
11 each of the provinces has a different regime.
12 It would be a matter of working with FINTRAC.
13 But I do see different ways of doing it.

14 Q I'm going to next ask about basically
15 cooperative federalism. If you could give your
16 observations, please, on cooperation between
17 provincial and federal agencies who are engaged
18 in anti-money laundering work as well as
19 suggestions for improvement with respect to
20 cooperation between the two levels of government
21 in our country.

22 A Well, I'll restrict myself to what I've seen
23 with regard to my reports and I'll do that on
24 two levels. If you're talking about the
25 agencies or if you're talking about government,

1 the small little window that I had on government
2 involved the Attorney General of British
3 Columbia and the Federal Public Safety Minister.
4 And in my opinion, they developed a good rapport
5 over this issue. The Attorney General here was
6 very interested in dealing with the issue. And
7 the public safety minister with his background
8 as the former chief of police of Toronto and
9 president of the Canadian Association of Chiefs
10 of Police, very familiar with the topic. So in
11 my mind the individuals -- you know, there was a
12 meeting of the minds so to speak.

13 Now, does that mean the Attorney General was
14 happy with what he got from the federal
15 government, his -- the public safety minister?
16 Those are questions for them. But I liked that
17 relationship. I thought it was healthy even
18 though they were of different political
19 persuasions.

20 In terms of agencies and law enforcement,
21 quite frankly there seldom is an issue when
22 you're dealing with the type of work that we're
23 talking about here. There's a lot of
24 cooperation between law enforcement, certainly
25 in the Lower Mainland here. Integration,

1 working with other agencies in my mind, in my
2 time it was good. Police tend to work well with
3 other police. And I think you can translate
4 that across the country. I've served in
5 numerous provinces. You see strong cooperation
6 between the RCMP, the Sûreté municipal police in
7 Quebec. You see similar strengths in Ontario,
8 right across the country. Police tend to work
9 fairly well with other police, and so I really
10 don't see that as an issue

11 If you're talking about non-law enforcement
12 agencies, it really would depend on which one
13 we're referring to, I suppose.

14 Q In general terms do you see weaknesses on
15 occasion as between agencies federally and
16 provincially working with each other, or there
17 are even, I guess, at some level almost a
18 structural dynamic that can come about when
19 there's provincial and federal agencies who are
20 trying to collaborate or work together or it
21 means that one or the other in that dynamic
22 doesn't do their best?

23 A I think generally speaking everybody is doing
24 their best in their world, but you do run into
25 dynamics between departments, and I've certainly

1 seen that at the federal level. Departments are
2 quite different even when they're in the same
3 government. The RCMP is quite different from
4 federal corrections. They're different
5 organizations, they operate differently, but
6 they both report to the same minister. So you
7 do see a lot of differences.

8 If we're talking about this money laundering
9 lane that we're in, the issue that I highlight
10 in -- I believe it's Dirty Money 2 is the fact
11 that the lead nationally for anti-money
12 laundering is the Ministry of Finance federally.
13 With no -- not to cast any aspersions on the
14 Ministry of Finance, they do great work, but it
15 definitely does not place a law enforcement
16 emphasis on the work, which you would see if,
17 for example, the public safety ministry was the
18 lead when it came to anti-money laundering
19 issues.

20 Now, I understand why finance is the lead.
21 It goes back many years and it is because of
22 FINTRAC and the regulation of financial
23 entities, so I understand that. But I think we
24 always have to keep in mind what are we focused
25 on here. So if we're focused on the enforcement

1 side, that really should stay with those
2 ministries that deal with enforcement. If we're
3 talking about regulatory matters that I quite
4 accept that those issues may well rest with
5 another ministry.

6 And you'll see the same thing at the
7 provincial level. Different ministries operate
8 differently, but I think it's really important
9 that enforcement stay on the enforcement side of
10 the house and whether it's regulation or
11 financial regulation, presumably, at the finance
12 side. I don't know if that answers the
13 question.

14 Q No, that's useful. And just to, again, pick up
15 on the comment about finance being the lead, I
16 take it at some level that's describing the
17 decisions some 20-plus years ago that FINTRAC be
18 situated within Ministry of Finance. Earlier
19 you contrasted that with other jurisdictions
20 where the FIU, the financial intelligence unit,
21 is put in a different area of the government and
22 more closely allied with law enforcement.

23 A Yes, it is that, but there are also greater
24 implications at the national level and that is
25 because the finance is also the lead

1 internationally on this topic for Canada. So
2 whether it's with the FATF, the Financial Action
3 Task Force, international bodies generally
4 dealing with money laundering, finance takes the
5 lead.

6 Now, I fully appreciate and I've been part
7 of those meetings. I've also be part of the
8 meetings that -- preliminary meetings where
9 various departments come together. But again,
10 the emphasis is not necessarily -- for our
11 country anyway -- on the enforcement side. If
12 you were to look south of the border the
13 Treasury Department in the United States also
14 has enforcement under it. So it's a different
15 structure entirely. For example, the Secret
16 Service, Homeland Security, the IRS, fall under
17 Treasury. So different structures. But in our
18 country the enforcement is under the public
19 safety ministry. The Ministry of Finance takes
20 the lead internationally.

21 Q I'm going to ask next about RCMP staffing
22 levels. You're retired now from policing but
23 had a long career as we referred to earlier
24 in -- with the RCMP in a number of senior
25 positions. In the course of your work on the

1 reports you determined and made some comments
2 with respect to staffing levels or resources
3 dedicated to money laundering in the province of
4 BC.

5 I don't need to turn it up but just for the
6 benefit of anyone who leads to look it up, my
7 note is that in the second report, page 18, in
8 the executive summary you have language to the
9 effect that there are currently no federally
10 funded RCMP resources in BC dedicated to
11 criminal money laundering investigation. And my
12 question is really to ask you how did you --
13 what was your approach, what did you draw from
14 your knowledge of the RCMP and your experience
15 in asking questions and sorting out what the
16 actual resources were in your view?

17 A Right. Thank you. And I'm the first to say as
18 others have pointed out since is that my
19 meetings with the RCMP reflect a point in time,
20 and that is the day that I met with them.

21 Q Yes.

22 A And things, when it comes to human resources,
23 can change daily. And my intention really at
24 the time -- and I was with a couple of members
25 of our team and we met with senior RCMP. We

1 were there for a number of reasons as I recall,
2 but really almost as an aside I asked how many
3 people were dedicated to this subject. And that
4 led to what you see in the reports.

5 I believe going from memory it was something
6 to the effect of 25 dedicated resources with
7 money laundering, 11 were currently in the
8 positions. And then only five were actually
9 working, and those five were working on civil
10 forfeiture matters, which meant moving files
11 over to the provincial civil forfeiture regime,
12 leading me to the conclusion there were no
13 full-time dedicated resources dealing with money
14 laundering. Again, it's a point in time.

15 I would also add the caveat that as with any
16 criminal offence every police officer has the
17 ability to lay or to recommend in this province
18 the laying of a criminal charge of money
19 laundering. So it's not as if nobody is looking
20 at it. And presumably in most investigations
21 you should look at that component. But often
22 times it doesn't happen. But it's certainly
23 something that anyone could look at.

24 So that was the essence of that discussion
25 with the RCMP.

1 Q Did you draw on your knowledge of management and
2 senior levels of RCMP to know that -- I don't
3 know if it actually unfolded that way that the
4 first answer is 25 and you asked the next three
5 questions and heard 11 and that whittled down to
6 five, which became a zero at some point as you
7 really asked the followup questions. I'm
8 curious about what it was that you draw upon or
9 knew to ask in that set of questions.

10 A Right. Yes. I suppose that to a certain extent
11 I'll well aware of the fact that it's -- the
12 RCMP federal business line has had issues in
13 terms of filling its positions and that is
14 because -- a number of reasons.

15 One of them in this province is the priority
16 given to the contracts. The RCMP has contracts
17 with the municipalities and with the province,
18 the provincial police force, and so you have to
19 make sure those positions are filled. So
20 oftentimes federal is the third to be staffed
21 up. So that's an inherent problem. But you
22 also have issues with people on sick leave,
23 people on training. You have people that may be
24 away on extended leave. There can be any number
25 of reasons. You have maternity, paternity,

1 those sorts of things.

2 So it's one thing to have positions. It's
3 another to have funded positions. It's another
4 to have people in those positions. It's another
5 to have people in those positions and actually
6 working on the subject area. And those are sort
7 of, I suppose, the thought process that went
8 through my mind at that time.

9 Q Was it difficult for you to get that -- to get
10 an accurate read on the real resources?

11 A Well, like I say, it wasn't -- I didn't -- I
12 wasn't trying to, you know, make -- it just
13 wasn't to me an issue, but it sort of became an
14 issue when we realized that there really were no
15 resources.

16 And the RCMP were forthright. They told
17 me -- in fact they told me it was 11 and then
18 one of the officers -- I believe the
19 superintendent -- spoke up and he says well,
20 really it's only five that I've got that are
21 actually, you know, dealing with this right now.
22 And so they were very open about that. It
23 wasn't as if they were trying to hide the fact
24 from me or anything like that.

25 Q I'm going to ask about IIGET, the Integrated

1 Illegal Gaming Enforcement unit. You were in
2 the position of being the RCMP's Assistant
3 Commissioner for the Lower Mainland in the
4 period, if I have the notes right, of 2007
5 through to 2011. The question is in that
6 capacity did you -- was it in the nature of your
7 role and duties that you had involvement in or
8 responsibility for IIGET?

9 A No, is the straight answer. But I think in
10 fairness to properly answer the question you
11 have to understand the nature of the units in
12 RCMP in this Lower Mainland. You've got of
13 course the three business lines: federal,
14 provincial and municipal. You have federal
15 units that report up the chain of command, you
16 have provincial units that report up the chain
17 of command and you have municipal units.

18 My remit was the municipal units within the
19 Lower Mainland, which is a large district, some
20 3,000, I think. 2,500, 3,000 resources. All
21 the cities that are not policed by the RCMP.
22 Now, that's --

23 Q So that's Surrey and Richmond and all of the
24 various cities that don't have their own --

25 A Sorry.

1 Q Sorry. No, I interrupted. Carry on.

2 A Yes, it's all the cities without their own
3 municipal police forces. And it's about half
4 and half in the Lower Mainland, municipal and
5 RCMP.

6 So within each of those bands you've also
7 got integrated unit, and sometimes those
8 integrated units are just integrated within that
9 business line. Sometimes they involve external
10 partners, but sometimes there's integration
11 between business lines. So, for example, in the
12 Lower Mainland as the Lower Mainland commander,
13 I had a number of very large integrated units
14 that reported up to me such that the integrated
15 homicide team, IHIT; I head the integrated dog
16 section, the integrated traffic collision
17 section and so forth. IHIT has resources from
18 the different business lines in it, but
19 predominantly municipal.

20 Now, in answer to your question, IIGET was
21 a provincial business line unit. It was a very
22 small unit and it did not report to the Lower
23 Mainland. It reported up a separate chain. To
24 be very frank, I hardly remembered that it
25 existed. It wasn't -- it didn't report to us in

1 the Lower Mainland. And when the topic of IIGET
2 came up -- because the Attorney General was
3 interested and he'd receive correspondence, he
4 wanted me to take a look at that. I did. And I
5 had a vague recollection of IIGET having been
6 working in the Lower Mainland. There was a team
7 in those years. And I also can recall having
8 spoken with Mr. Pinnock, who was at one time the
9 detachment commander -- or the unit commander.

10 But that was about the extent of my recall
11 of that unit, which then caused me to go over to
12 the police services in Victoria to learn about
13 the unit, how it was formed and how it came to
14 an end.

15 Q Thank you. I'm going to ask about a
16 recommendation that you made in your first
17 report dealing with the casinos sector that no
18 cash cap should be implemented. I wonder if you
19 could comment on the basis for that view or
20 recommendation that you put forward.

21 A Right. So as part of the terms of reference, I
22 was asked to come forward with interim
23 recommendations if I saw the need for them. And
24 it seemed to me that it was important to move
25 fairly quickly in terms of attempting to stop

1 the bleeding, so to speak. Stop the dirty
2 money.

3 Now, the dirty money had already been
4 slowing down ever since 2015, but it was still
5 coming in as far as we could see. And how do
6 you stop that? And all of these issues with
7 casinos, it's about source of funds, it's about
8 knowing where the money comes from.

9 The Attorney General had invited interim
10 recommendations and I made two interim
11 recommendations at that time. One was with
12 respect to obtaining a source of funds
13 declaration for amounts over \$10,000 and there
14 was another related to resourcing. That was the
15 purpose for the interim recommendation. Both
16 before that interim recommendation and after,
17 there was always discussion about should there
18 be a cap on the amount of money going into the
19 casinos.

20 And as a result of the inquiries that I had
21 made internationally, in the United States, in
22 the literature, it appeared that a cash cap was
23 not the norm in casino systems in other places
24 because why would you put a cap on legitimate
25 money that is being used to gamble. If a person

1 has \$100,000 and they want to gamble with that
2 \$100,000, why not? The issue is the source of
3 funds and the source of wealth.

4 So from my perspective, that made a lot of
5 sense. Let's tighten up on where the money is
6 coming from, where the money was generated as
7 opposed to an arbitrary cap, whether it's -- and
8 to try to figure out what a cap would be would
9 be almost impossible. I mean, that would just
10 be quite arbitrary, 3,000, 10,000, 100,000. I
11 don't know how you would come to that
12 conclusion.

13 So my view was it wasn't a common practice
14 in the industry, internationally, and it really
15 was an issue of source of funds. And that flows
16 through everything we were doing back to source
17 of funds.

18 Q Did you consider whether a cash for cheques
19 typology might be occurring in BC casinos?

20 A Well, there's -- you have a whole lot of
21 different things going on. You have -- cheques
22 can be issued for certain things. You have
23 convenience cheques. You have cheques for
24 winnings. You also have player gaming accounts
25 that are paid out, as I understand it, by

1 cheques. So cheques do figure into the issue.

2 You also have what's referred to as
3 refining where you simply have straightforward
4 \$20 bills that are turned into \$100 bills. So
5 yes, cheques are a component of that and so is
6 higher denomination dollars.

7 Q And there was, as I understand, an Ernst & Young
8 audit report that I understand dates to right
9 around, I think, very early 2019. So the period
10 in time when you were -- the ink was drying or
11 close to drying on your second report that
12 supported the view that the so-called cash for
13 cheques activity was not occurring or at least
14 was not money laundering activity occurring at
15 the River Rock Casino. Is that a report or a
16 position or something you're aware of or have a
17 comment about?

18 A Yeah, I know that that report came out, as you
19 say, after my second report, and I believe it
20 dealt with that classic scenario that you're
21 referring to of, you know, you go in with cash
22 and you're given a cheque. The bigger issue for
23 me was this Vancouver Model, which we'll
24 probably come to later on, of money coming into
25 the casinos.

1 And also by that time there had been a move
2 to the player gaming accounts and how the player
3 gaming accounts were being fed, what money was
4 doing in and how that money was coming out. I
5 don't believe that was the topic of the Ernst &
6 Young report, but I could stand corrected. Like
7 I say, it came out after my reports.

8 The other thing that I would point out is
9 that I relied more on the -- well, that one
10 didn't exist at the time, but the MNP report.
11 MNP, the international forensic firm, had done a
12 fairly extensive review just a year before I was
13 engaged to work on, mine and it's a fairly data
14 intensive report and came to a number of
15 recommendations and findings.

16 Q With respect to patron gaming funds, do you see
17 there as being, I suppose, lesser alternative
18 options or remedies other than eliminating
19 patron gaming funds entirely to address the
20 sorts of concerns you have with them?

21 A What I will say about player gaming the accounts
22 is that they're cumbersome to begin with. The
23 service providers and the staff were not really
24 thrilled with them because they were awkward and
25 they showed me the various forms and everything

1 that went into these -- creating these player
2 gaming accounts.

3 And it also appeared that money didn't stay
4 in the player gaming accounts for all that long.
5 Plus they were not used -- there were a few -- a
6 small number of people that used the player
7 gaming accounts, and they tended to be really
8 high rollers, whale gamblers as they sometimes
9 refer to them. So -- and as I understand it, it
10 was a device constructed in this province around
11 2009.

12 So in terms of is it a viable mechanism. At
13 the end of the day, again it goes back to source
14 of funds, the money going into it. How you
15 construct it, what forms you use and that sort
16 of thing, from talking to the service providers,
17 they were much more interested in having access
18 to credit, credit granting. That to them -- and
19 I think all three of the large service providers
20 pointed that out to me: we would like to do
21 business the way we do it elsewhere. Because
22 with credit -- it's an easier process for them.
23 They deal with it in their back office, but they
24 also have to do a lot of due diligence on people
25 before they grant credit to them, and it seems

1 to work.

2 So I, in the report, also advocated that we
3 should be looking at that. Not necessarily as
4 an alternative to PGAs or maybe a purpose for
5 them, but again, source of funds is the
6 important thing.

7 Q I'm going to ask about the luxury car market,
8 and in your second report you address that topic
9 or area. My question is really maybe one on
10 part of process. So if you can give a sense,
11 please, of how you and your colleagues, fellow
12 consultants addressed that topic in terms of
13 what steps were taken and what the basis was for
14 conclusions that were set out in your second
15 report.

16 A First of all, there's a lot of literature
17 internationally on luxury cars. I don't think
18 it's really an area that people had looked at
19 before and in fact a lot of people sort of
20 pooh-poohed it as, you know, really, luxury
21 cars? But what's interested about the auto
22 industry is similar to the boat industry,
23 auction houses and so forth. They're not
24 reporting entities.

25 And you can sort of appreciate why, for

1 example, a used car dealership is not a
2 reporting entity if you're in the year 2000. 20
3 years ago a used car in many cases didn't reach
4 \$10,000 in value. But today -- well, we became
5 aware of the fact it was well known that
6 Vancouver had a reputation as a luxury car or a
7 super car -- highest percentage of super cars
8 per capita or whatever in North America. And
9 you could see that by driving around certain of
10 our communities. Ferraris, Lamborghinis and
11 everything else.

12 So to us and from the intel we were getting
13 from police, it was an area to look at. Our
14 approach was to talk to police -- or in addition
15 to the international literature it was to talk
16 to police. We were trying to consider well,
17 should we try some undercover operation or
18 something? We didn't get into any of that.
19 What we really ended up doing, one of the team
20 members did cold calls to dealers and spoke to
21 dealers. And it was amazing how forthright they
22 were.

23 They told us what was going on because a lot
24 of them were quite offended by what was taking
25 place. They saw cash coming in. Not

1 necessarily on a daily basis, but some on --
2 like, a monthly basis people would be buying
3 luxury cars with cash. And we also were able to
4 juxtapose police information from Vancouver
5 Police with what car dealers were saying.

6 And it sort of came together that yes,
7 people of interest were purchasing luxury cars.
8 It's a great way to store value and then you
9 sell it. And there's a whole resale industry in
10 this -- in Vancouver, primarily Richmond, for
11 luxury cars. So that's a whole separate issue.
12 That was sort of our approach there.

13 With respect to the grey market in luxury
14 vehicles, that sort of fell on our doorstep, so
15 to speak, in that we became aware of the fact
16 that the provincial sales tax agency was
17 encountering an incredible increase in sales tax
18 rebates due to vehicles being exported from
19 Vancouver or Greater Vancouver. So we met with
20 the sales tax authorities and they gave us the
21 details of what was transpiring.

22 And in essence, you have nominee purchasers
23 purchasing luxury cars in dealerships and then
24 taking them to exporters who would export the
25 vehicles to Asia. And then those nominees would

1 go to the sales tax authority and obtain a
2 rebate on the sales tax they paid. And that's
3 really how we became aware of this grey market.

4 In and of itself it doesn't necessarily
5 indicate criminality. The issue is how these
6 vehicles are purchased, whether it's cash,
7 whether it is bank drafts and so forth. So,
8 again, a really efficient vehicle, so to speak,
9 if I may use that term, to move money.

10 Q I'd like to ask for your perspective on
11 unexplained or they're sometimes called
12 unidentified wealth orders and whether you think
13 the mechanism which is -- we've heard a little
14 bit about, including in the United Kingdom and a
15 few jurisdictions, whether you think that's a
16 useful or a viable tool to be used in the
17 context of civil forfeiture remedies in this
18 province.

19 A Thank you. Yes, I do think that there is a
20 place for unexplained wealth orders. It's early
21 days both in the United Kingdom and in Australia
22 to see where those are going to go. I think
23 you're going to see more of it internationally,
24 it would not surprise me at all.

25 Your question obviously deals with civil

1 forfeiture because I don't see it as a potential
2 criminal option, again, due to charter
3 constraints, reverse onus, you name it. So it
4 really falls to the civil law and civil
5 forfeiture.

6 How viable it would be. I'd like to be half
7 glass full, but I can be -- I'm probably glass
8 half empty on this. I'm not too sure how viable
9 it will be. We've got a very robust civil
10 forfeiture program in this province that for all
11 intents and purposes works very well. But we
12 are seeing, you know, increased bifurcation of
13 cases that are contested, charter issues
14 arising. And we're also seeing some that are
15 extremely lengthy. One that's been going on
16 for 10 years, so to take on an unexplained
17 wealth order case I think would be quite onerous
18 for the civil forfeiture office, and I'm not too
19 sure in terms of where that would end up.

20 In principle I think it's a tool that
21 should be there in the toolbox for those very
22 unusual cases such as have already been
23 litigated in the United Kingdom.

24 Q With respect to the kind of work that you've
25 been engaged in or whether you -- I guess the

1 better question is have you been involved in
2 further advisory work or engagement after
3 completing your two reports following up on
4 those recommendations in particular with the
5 provincial government? And if so, if you can
6 just give us a sense of the nature of that
7 engagement or work.

8 A Right. Very limited. I was asked to be
9 available to consult with the province in terms
10 of the implementation of the recommendations. I
11 do recall going over to Victoria I believe on
12 two occasions to speak to people that were
13 engaged, working groups that were engaged in
14 looking at the recommendations and to at least
15 provide my perspective on the recommendations.

16 I also recall going over one time to discuss
17 one of the -- one of the recommendations, and
18 that was the independent regulator and some
19 ideas that the province had come up with. And,
20 you know, I was flattered that they would, you
21 know, ask for my thoughts on that. They were
22 thinking of an option that was slightly
23 different than what I had recommended. So I
24 provided that. Maybe a few calls, a few emails
25 but really that was the extent of it.

1 I'm not familiar with what happened with
2 each one of the recommendations. I did receive
3 a letter from the province a few weeks ago which
4 outlined that of the 48 recommendations, I think
5 it is, from the first report, that 20-some -- I
6 don't recall the exact number -- but had been
7 dealt with -- not necessarily implemented as
8 written, but had been dealt with in one fashion
9 or another, and the balance were awaiting other
10 matters, primarily the work of this commission.

11 Q Just to pick up on that. To some extent the
12 fact of the existence of this commission and
13 ongoing work to your understanding may have led
14 to some steps not being taken right away,
15 awaiting our process?

16 A Well, I think that's fair comment. And you can
17 understand why within a government bureaucracy,
18 why implement a recommendation, I suppose, if
19 the commission will come out with something
20 that's different. It does create that time lag,
21 I suppose, on the other side. Let's get it
22 right the first time, so to speak. You can see
23 the arguments on both sides.

24 I do have some residual concern. You know,
25 has anything actually changed at the front end.

1 My key recommendations, I think, with respect to
2 Dirty Money 1 were a standards-based system as
3 opposed to a prescriptive system. So going to a
4 risk-based model, which I talked about at some
5 length. An independent regulator. A designated
6 police force to deal with casinos and statutory
7 amendments.

8 So I'm aware that, you know, work is being
9 done on statutory amendments. I'm not really
10 familiar with what has become of the designated
11 police officer issue or designated police unit.
12 I'm not sure if the independent regulator is
13 tied up with the statutory amendments. And I
14 understand some work has been done on the --
15 moving to a standards-based regime. Again, I
16 just don't know the details. So I guess those
17 are my concerns. Where are we right now? I'm
18 not the right person to answer that.

19 Q Next, Dr. German, what I'd like to do is make
20 sure that you're able to respond to a few
21 positions or points that we've learned about or
22 heard about during the course of our
23 commission's work.

24 First, to the extent that someone might
25 suggest that you were hired to pursue a

1 certainly knows his job. He was very helpful to
2 me in terms of the logistics of all of this.

3 And if I received material from the Attorney
4 General's office, which I did, because people
5 would write to the Attorney General and it would
6 be referred to me, it would come through the
7 ministerial assistants that work for the
8 Attorney General on the political side of the
9 house.

10 Q The second point I wanted to make sure you had a
11 chance to respond to is the suggestion that
12 somehow you might have been involved in delaying
13 steps taken by the government to -- which would
14 be proposed improvements to the AML system for
15 political reasons.

16 A Absolutely not. I suppose with a review such as
17 this there's going to be a lot of, quote/
18 unquote, noise around it, and I say that in a
19 non-pejorative sense. There were a lot of
20 things happening. The media was still breaking
21 stories. Different tips were coming in from the
22 public. There were various add-ons to my terms
23 of reference, some that became part of the terms
24 of reference, some that I refer to in the
25 report.

1 So a lot of things were happening, but at no
2 time was I given any marching orders, so to
3 speak. I wouldn't know what the political
4 agenda was, to be honest with you. I have no
5 idea.

6 Q The third such point, sir, is the suggestion
7 that the nature and extent of your interactions
8 with BCLC, in particular during preparation of
9 the first report, was insufficient. What's your
10 response to that suggestion that we've heard
11 about?

12 A Well, yeah, I reject that, quite frankly. I --
13 between Jerome Malysh and myself, we spoke to
14 some 160 people. Most -- the great majority of
15 which are listed in the report, some that are
16 not listed. Having heard this issue arise, you
17 know, by my count just by looking at the back of
18 the report, I spoke to somewhere in the area of
19 17, I think it is, BC Lottery Corporation folks.
20 About 23 by my count from the gaming policy
21 enforcement branch. And although your mandates
22 are different, that's probably roughly -- I
23 think I have probably spoken to as many BCLC
24 people as the Commissioner had heard testimony
25 from.

1 So it's not, as far as I'm concerned about,
2 numbers; it's about dealing with the mandate
3 that you're given and focus. We had a lot of
4 telephone conversations with BCLC, we had a lot
5 of emails. BCLC facilitated the information
6 that we required. Very helpful. As was the
7 province. So any question I had would be
8 answered.

9 I would also add to that that everybody had
10 my phone number. If they didn't, I was very
11 easy to reach and I never said -- you know, I
12 don't believe I ever not responded to a call.
13 If anyone wanted to talk to me, they were most
14 willing to call me. So I was satisfied that we
15 talked to enough people to come to the
16 conclusions and recommendations that I did.

17 Q Not long ago in your evidence you gave some
18 sense of this. The question has to do with to
19 the extent that you may have an awareness of or
20 have followed along with initiatives, proposals,
21 developments since the completion of your second
22 report beyond those you may have touched on
23 already, are there particular measures or
24 initiatives that you have heard about that you
25 see as being really critical or vital?

1 A I mean, just generally investigations or are we
2 talking about --

3 Q I'm happy to hear your thoughts on generally and
4 investigations. Really -- I appreciate I've
5 just deflected that right back to you, but ...

6 A Well, I do have a -- having served as a police
7 officer for many years and been in charge of
8 financial crime for the RCMP cross country,
9 having done large investigations, you know, I've
10 lived it and I've felt the frustrations, and I
11 think there's a lot of things that we could do
12 in this country on that side of things. And
13 don't get me wrong. It's not all about
14 enforcement. I'm well aware there's a
15 prevention component. There's, you know, how to
16 dismantle organized crime and so forth. But if
17 we're dealing strictly with financial crime, as
18 I started to say earlier, we are at a lot --
19 there are a lot of disadvantages that financial
20 crime investigators face, and I usually
21 juxtapose that with our American counterparts.

22 One of the key ones is the role of the
23 prosecutor, quite frankly. In Canada the
24 prosecutor does not view herself or himself as
25 law enforcement. In the United States generally

1 speaking they do. And you see law -- the
2 prosecutor and the police, whether it's the US
3 attorney and the police, the agents and so
4 forth, working very closely together. It's a
5 strong relationship.

6 Here prosecutors are much more independent,
7 and there have been attempts in the past to have
8 police units run by lawyers and it hasn't always
9 worked out for various different reasons. It's
10 a different culture here, and that does pose
11 issues. We have a lot of time delays in terms
12 of getting information, production orders,
13 information from FINTRAC. We're not seeing
14 types of contempt of court responses as you see
15 in the United States if information doesn't
16 arrive in a certain period of time, banking
17 information and so forth. A lot of delays.

18 There are definitely resourcing issues.
19 The police have resourcing issues, the
20 prosecutors have resourcing issues, but I don't
21 think just giving the police more resources or
22 the prosecutors is the panacea. We have to
23 clear some of the roadblocks that exist. And
24 some of them -- you know, offences for that
25 matter. Lying to a police officer is not an

1 offence in this country. Yes, we have
2 obstruction, but it's quite different than what
3 you see in the United States, lying to a federal
4 officer, federal agent, which is leveraged all
5 the time in their large cases.

6 And I've talked about a lot of these or at
7 least mentioned them in Dirty Money 2. And
8 that's without even talking about punishment and
9 sentences and so forth. It's a matter of -- I
10 guess my focus is not on that back end; it's
11 more on getting these cases before the courts.
12 Without referring to particular cases,
13 disclosure is a challenge for the police. It's
14 a huge challenge, and they will all tell you
15 that. Particularly financial crime cases.

16 And part of that is the fact that technology
17 has changed and technology has absolutely
18 magnified exponentially the amount of data. And
19 you would know that better than anyone from the
20 commission and the amount of data that the
21 commission has acquired in the time that it's
22 been set up. So it becomes very onerous. And
23 when you hear testimony that a particular police
24 case involved 100 or 200 investigators, you have
25 to wonder, like, what's wrong. And then to find

1 out that cases are taking -- as in
2 E-Nationalize, which is come up, I'm sure a few
3 times, you know, we're talking about a case that
4 started in 2015 and we're in 2021 waiting for
5 charge approval.

6 So anyway, again, I don't want to just sound
7 off here, but we have to look at a whole lot of
8 issues, I think, including those that I
9 mentioned.

10 MR. MARTLAND: Mr. Commissioner, I expect I'm close
11 to completing my questions, but I would benefit
12 for a chance to check over notes. If I could
13 suggest we take the break, the 15-minute break,
14 at this point, please.

15 THE COMMISSIONER: Certainly, Mr. Martland. We'll
16 take --

17 MR. SMART: Mr. Commissioner. It's Mr. Smart.
18 There's a document that I didn't give notice of.
19 I thought I had, and I didn't. It's one
20 that's -- what we've called the Kroeker report.
21 Dr. German refers to it, quotes from it in his
22 Dirty Money number 1. I'd like to seek leave --
23 and I'm just raising it now so that Mr. Hira and
24 Dr. German will have an opportunity on the break
25 to look at that.

1 Exhibit 141, one of the numbers is BCLC7108,
2 and I'll address it when it's my turn to
3 cross-examine. But just -- we've got a break
4 now and I want to just raise it. Thank you.

5 THE COMMISSIONER: All right. Thank you, Mr. Smart.

6 MR. R.R. HIRA: I wonder whether Mr. Smart is able to
7 provide to us the pages that he'll be referring
8 to given the late notice.

9 MR. SMART: Well, I'm going to refer to probably six
10 or seven pages, Mr. Commissioner.

11 THE COMMISSIONER: Well, maybe the thing to do,
12 Mr. Smart, is if you could contact Mr. Hira sort
13 of offline --

14 MR. SMART: Yes.

15 THE COMMISSIONER: -- perhaps by email, and just
16 indicate to him what it is you're proposing to
17 do. That gives him a sufficient heads up. I
18 don't know if anyone else is necessarily
19 implicated by this. Perhaps Ms. Henein has
20 something to say about it as it's her client's
21 report. But at least we have some heads up of
22 what it is you're proposing to do with the
23 report.

24 MR. MARTLAND: Perhaps I can suggest,
25 Mr. Commissioner, and to Mr. Smart that if he's

1 willing to use the "all panelist" chat feature
2 on the Zoom to let us know the page numbers,
3 that's a convenient way for everyone to see it
4 without needing to email all the right people.

5 THE COMMISSIONER: Do you have the technical
6 proficiency to do that, Mr. Smart?

7 MR. MARTLAND: I don't think you should ask Mr. Smart
8 directly.

9 MR. SMART: I don't, but Mr. Leung does. He's doing
10 it right now. Thank you.

11 THE COMMISSIONER: All right. That's fine. We'll do
12 it that way, then. We'll take 15 minutes.
13 Thank you.

14 THE REGISTRAR: The hearing is now adjourned for a
15 15-minute recess until 11:38 a.m.

16 **(WITNESS STOOD DOWN)**

17 **(PROCEEDINGS ADJOURNED AT 11:23 A.M.)**

18 **(PROCEEDINGS RECONVENED AT 11:37 A.M.)**

19 **PETER GERMAN, a witness**
20 **for the commission,**
21 **recalled.**

22 THE REGISTRAR: Thank you for waiting. The hearing
23 is resumed. Mr. Commissioner.

24 THE COMMISSIONER: Thank you, Madam Registrar.

25 Yes, Mr. Martland

1 MR. MARTLAND: Thank you, Mr. Commissioner.

2 **EXAMINATION BY MR. MARTLAND (continuing):**

3 Q Dr. German, I think I have just one last
4 question. And just picking up, you described a
5 letter that you received from the province that
6 sounded like it was sort of an update with
7 respect to work that had been done and progress,
8 et cetera. Is that -- I haven't seen that
9 letter. I'm just curious. Does the letter get
10 into any detail about which recommendations were
11 complete or into specifics, or is it more
12 general?

13 A My recollection is it's general. I'm happy to
14 provide a copy. It's at my office, but I can
15 try to find it and provide it for sure.

16 MR. MARTLAND: I see Ms. Hughes has appeared on
17 screen. I don't want to put her on the hot spot
18 just because she turned on her video. That's
19 not very good practice. We can follow up about
20 that separately, would be my suggestion.

21 MS. HUGHES: Not a problem. And I was just going to
22 advise that upon hearing Dr. German's evidence
23 on that point, we've made inquiries about that
24 specific letter, and I expect we'll be in a
25 position to provide a copy shortly as in by the

1 close of business today.

2 MR. MARTLAND: That's helpful.

3 Mr. Commissioner, that completes my
4 questions of the witness.

5 THE COMMISSIONER: Thank you, Mr. Martland.

6 I'll then call on Mr. Brongers on behalf of
7 Canada, who has been allocated 20 minutes.

8 MR. BRONGERS: Thank you, Mr. Commissioner.

9 **EXAMINATION BY MR. BRONGERS:**

10 Q So good morning, Dr. German. To begin with, can
11 you confirm that you are hearing me clearly?

12 A Yes, loud and clear. Thank you.

13 Q Great. So the questions I'm going to ask you
14 today will relate mainly to several of the
15 assertions that you make in your reports about
16 the RCMP and FINTRAC. But first of all, I just
17 want to confirm the extent of your direct
18 knowledge of these organizations at the time
19 these reports were prepared. So to begin with,
20 your work on the first Dirty Money report, which
21 I'll call Dirty Money 1, this work was done
22 during a period from September 2017 to March
23 2018; correct?

24 A That's correct.

25 Q And your work on the second Dirty Money report,

1 which I'll call Dirty Money 2, that work was
2 done during the period from September 2018 to
3 March 2019; is that right?

4 A Correct.

5 Q Now, you testified you had a long career with
6 the RCMP, which ended with your retirement in
7 2012; is that correct?

8 A That is correct.

9 Q So at the time you finished your work on Dirty
10 Money 1, you had hadn't been working for the
11 RCMP for over six years; right?

12 A That's correct.

13 Q And so then at the time you finished your work
14 on Dirty Money 2, you hadn't been working for
15 the RCMP for over seven years; right?

16 A Seven years, correct.

17 Q And as for FINTRAC, you've never worked for that
18 organization, have you?

19 A Correct.

20 Q So given your lack of direct knowledge of
21 FINTRAC and the RCMP post-2012, if I understand
22 correctly, in order to obtain information about
23 these organizations for your reports, you
24 conducted interviews and you reviewed documents;
25 right?

1 A As well as public source and so forth, yes.

2 Q Perfect. So it would be fair, then, to say your
3 assertions about FINTRAC and the RCMP post-2012
4 in these reports are all based on these hearsay
5 sources; they're not based on your direct
6 personal knowledge; right?

7 A I would not say that. I've -- well, I am
8 familiar with FINTRAC, their annual reports. I
9 have a book in the market that I update with
10 respect to the proceeds of crime money
11 laundering legislation, and FINTRAC is part of
12 that. I have interacted on different matters
13 with FINTRAC people, but I certainly agree with,
14 you know, the assertion that I am not in direct
15 daily contact with FINTRAC and have not been for
16 many years. And yes, so ...

17 Q And with respect to the interviews you
18 conducted, you told the interviewees that the
19 information they provide would not be attributed
20 to them and would not otherwise be shared in a
21 way that could identify them; right?

22 A Well, not in so many words, no. I would explain
23 to witnesses, I did explain to witnesses, that I
24 was conducting a review, the nature of the
25 review. What becomes of the review is not for

1 me. You know, I did not hold out that documents
2 wouldn't be released at some point with access
3 to information and so forth. You know, so not
4 in as many -- in the words -- not the way you've
5 described it, no.

6 Q Well, perhaps if we turn to your report Dirty
7 Money 1.

8 MR. BRONGERS: If we could just bring up Dirty
9 Money 1, please, Madam Registrar. And go to
10 page 27 of the report. I'm sorry, I don't have
11 the PDF numbers. If we could just go to
12 paragraph 68.

13 Q You explain there in that paragraph, Dr. German,
14 that the interviews were conducted on a
15 confidential basis between the individuals and
16 the review team. Many persons interviewed were
17 told that the information they provided to the
18 review would not be attributed to them and would
19 not otherwise be shared in a way that could
20 identify them. Is that what you told the
21 interviewees?

22 A Yes, I would agree with that.

23 Q Okay. And you kept true to this promise since
24 when you reference information in your reports
25 that were obtained from the interviewees you

1 don't identify the name of the interviewee in
2 the reports, do you?

3 A Well, as I say here in 68, many persons
4 interviewed were told, so that's not necessarily
5 everybody and there was no blanket statement
6 read to people, you know, as I believed you were
7 asking from the earlier question.

8 What is stated in 68 is correct.

9 Q Okay. Perfect. And you explained in your
10 report that the goal in setting these terms was
11 to encourage your interviewees to be candid;
12 right?

13 A Yes.

14 Q And you would agree with me, though, that the
15 down side of this approach is that by
16 guaranteeing their anonymity there's less
17 incentive for interviewees to be careful to
18 ensure that their answers are factually
19 accurate; right?

20 A I suppose that's hypothetical. That depends on
21 the individual.

22 Q Understood. And it also means they would have
23 less incentive to express carefully formulated
24 opinions. It might be the case that they knew
25 that these opinions would be publicly attributed

1 to them and identified; right?

2 A I think that's entirely up to the individual. I
3 couldn't answer for people generally.

4 Q Now, Dr. German, in your report you make a
5 number of assertions about the RCMP and FINTRAC
6 in the present tense and I'll be directing you
7 to some of them in a moment, but you would agree
8 with me that in the case of Dirty Money 1, which
9 was finished in March 2018, those assertions of
10 course related to how you viewed the
11 organizations as they were over three years ago;
12 right?

13 A Sorry, you're talking about what I'm saying
14 today relates to what I saw in Dirty Money three
15 years ago? Is that what you mean?

16 Q No. I'm just trying to confirm. You
17 effectively testified to this earlier that your
18 reports are really snapshots in time, Dirty
19 Money 1 taken in 2018 and Dirty Money 2 taken in
20 2019. I'm just trying to explore with you
21 whether you would agree that these reports of
22 course don't necessarily reflect the reality of
23 FINTRAC or the RCMP today?

24 A Correct.

25 Q So I'll turn now to some of the substantive

1 portions of your report that contain certain
2 statements about the RCMP and FINTRAC. The
3 first one I'd like to ask you about is the one
4 that you made in chapter 11 of Dirty Money 1.
5 That's a chapter that you titled "The 'Other'
6 Regulator- FINTRAC" in which you describe
7 FINTRAC and its role particularly in relation to
8 casinos in British Columbia. Is that a fair
9 description of the chapter?

10 A Can you point us to a page that you're referring
11 to.

12 Q Certainly. Why don't we -- yes, thank you.
13 Madam Registrar anticipated my request.

14 I'm just saying that generally this chapter
15 is about FINTRAC and its role but particularly
16 in relation to casinos in British Columbia.

17 A Correct.

18 Q Now, at paragraph 332, if we could just move
19 forward to that paragraph.

20 MR. BRONGERS: 332, Madam Registrar. 332. Thank
21 you.

22 Q You wrote at the third sentence:

23 "FinTRAC is not a law enforcement body.

24 In fact, law enforcement officers are not
25 permitted to work in its premises due to

1 Charter and privacy concerns."

2 You wrote that; right, Dr. German?

3 A Yes.

4 Q What you didn't mention there, though -- and
5 this is just for sake of completeness -- is that
6 section 40 of the *Proceeds of Crime (Money*
7 *Laundering) and Terrorist Financing Act* provides
8 that FINTRAC is to act at arm's length and is to
9 be independent from law enforcement agencies.

10 Now, given that you're the author of the
11 proceeds of crime and money laundering text, I
12 trust that you're familiar with that provision.

13 A Yes. That's consistent with what I'm saying
14 here.

15 Q Right. But -- so you would agree with me, then,
16 that the actual reason why FINTRAC is not a law
17 enforcement body is because the act prohibits
18 FINTRAC from being a law enforcement body?

19 A Correct.

20 Q And you'd agree that FINTRAC can't act as a law
21 enforcement agency unless the proceeds of crime
22 legislation were to be amended; right?

23 A Correct.

24 Q Now, at the next paragraph, paragraph 333, in
25 the first sentence you wrote that:

1 results."

2 Is that what you wrote?

3 A I have -- I did write that, yes.

4 Q And so logically that statement would seem to
5 indicate that at least in more recent years the
6 lack of law enforcement officials at FINTRAC is
7 not actually a significant problem anymore.

8 Would you agree with that?

9 A No, I wouldn't draw that conclusion. I think it
10 really flows from what I said to Mr. Martland in
11 response to his question. The structural
12 issues, as you yourself have pointed out,
13 created by the statute are such that FINTRAC is
14 not a law enforcement agency, and so that will
15 always be an issue while we have that statutory
16 structure. And it is different from FIUs -- in
17 most other FIUs.

18 Having said that, I do believe that the
19 police have come to know FINTRAC, and certainly
20 those police that do financial work as well as
21 other agencies, tax authorities and so forth,
22 and likewise FINTRAC has got -- understands law
23 enforcement now much better than it did in the
24 early days and that's understandable. There's
25 been a growth over the last couple of decades.

1 But there is this structural issue and that
2 continues.

3 Q If we could move now to chapter 12 of Dirty
4 Money 1. That's the chapter titled "Police."
5 And here I'd like to ask you about
6 paragraph 343.

7 MR. BRONGERS: Madam Registrar, thank you.

8 Q So here you wrote in the last sentence:
9 "However, despite the huge number of RCMP
10 resources, only a small percentage is
11 dedicated to proceeds of crime and money
12 laundering duties."

13 Obviously you're making this statement in
14 relation to your assessment of the situation in
15 2018, so three years ago, but you've given no
16 indication in your report of what the number of
17 RCMP resources is or what percentage of those
18 resources were handling proceeds of crime and
19 money laundering duties; is that right?

20 A The reference to numbers I believe is in Dirty
21 Money 2. Dirty Money 1 -- no, that's correct.
22 I don't talk about -- I did not have that same
23 discussion that I had with the RCMP about the
24 number of resources dedicated. That took place
25 in Dirty Money 2.

1 Q Right. So --

2 A Sorry, go ahead. Thank you.

3 Q At the time you wrote the report in 2018,
4 though, you did not include an explanation there
5 as to why you qualified the RCMP's resource base
6 as being "huge" or why the percentage dedicated
7 to proceeds of crime and money laundering duties
8 is "small"; right?

9 A Well, it's my personal knowledge.

10 Q Even though you hadn't been in the organization
11 for six years at that point in time?

12 A Very much so. Very much so. Because I may not
13 have been in the RCMP, but I do remain alive to
14 what's taking place and the area of financial
15 crime and financial crime investigations is of
16 great interest to me.

17 I know that the proceeds of crime sections
18 had been eliminated and the RCMP has publicly
19 stated in recent years that they're
20 reconstituting that capacity. But quite frankly
21 it remains extremely small in terms of numbers,
22 and we do have a huge number of RCMP resources
23 in this province because of the municipal and
24 provincial contracts as well as the federal. So
25 I have personal knowledge.

1 dramatically reduced the quantity of
2 suspicious money entering casinos from its
3 high point in 2015. We must ensure,
4 however, that the problem does not
5 resurface in the future."

6 You wrote that; correct, Dr. German?

7 A That's correct.

8 Q So in other words, at the time you wrote the
9 report in 2018, you acknowledged that RCMP
10 involvement was a factor in reducing the extent
11 of money laundering in British Columbia; is that
12 fair?

13 A Well, what I wrote is fair in my opinion. And
14 that arises from two investigations that the
15 RCMP commenced in 2015 and the fact that they
16 were back doing work in the casinos dealing with
17 money laundering. So I think although those
18 investigations up to the present have not
19 resulted in any convictions, I think the fact
20 that the police were back there was a healthy
21 thing and it certainly became known publicly
22 that these investigations were underway, and
23 that in and of itself I think creates a certain
24 preventative aspect. It certainly sends a
25 message that the police are interested and

1 register, are off the proverbial radar
2 screen."

3 That was assessment at the time back in 2019,
4 Dr. German?

5 A Correct.

6 Q Now, Dr. German, the commission heard evidence
7 on January 18th from Megan Nettleton, who is the
8 acting supervisor of the RCMP financial crime
9 analysis unit. And she testified that the RCMP
10 had conducted a money service businesses
11 compliance project while she was on maternity
12 leave in 2018 to 2019, so around the time of
13 your report. And she explained that the RCMP
14 looked at 529 money service businesses that were
15 either unregistered, had their registrations
16 revoked or allowed them to lapse. According to
17 their study they did not find significant
18 criminality.

19 When you did your research for Dirty Money 2
20 were you told about the RCMP's money service
21 business compliance project?

22 A I was not.

23 Q So you weren't aware of the fact that the RCMP
24 had examined 529 money service businesses that
25 weren't registered in or around 2018 to 2019?

1 A I spoke to the RCMP about this issue, but I was
2 not advised about that particular work.

3 Q But if you had been told that, Dr. German, would
4 you still have written in your report that
5 little, if any, attention is being paid to
6 unregistered MSBs?

7 A Yes.

8 Q You still would have even though they had looked
9 at 529 money service businesses?

10 A Well, I guess the question is why are they
11 unregistered if you looked at them. They should
12 be registered and they should be on the radar
13 screen. And the issue here was that FINTRAC had
14 indicated to me that the police are looking at
15 this and the police had indicated to me that
16 FINTRAC is looking at this. So I came to the
17 conclusion that really not much was being done
18 and we are not seeing cases involving
19 unregistered MSBs.

20 On top of that, as I mention in the report,
21 I did talk to people involved in that industry
22 and at least one person running an MSB who
23 really indicated -- who told me quite simply,
24 why would we register? If you don't register,
25 you're off the radar screen, and it actually

1 makes sense when you think about it.

2 Q So, Dr. German, I'm conscious of my time. I'm
3 going to just ask you one last series of
4 questions about chapter 6-1 in the "Financial
5 Compliance" portion.

6 MR. BRONGERS: Madam Registrar, if you could turn to
7 page 277 in the report. That's 250.

8 Q So at the bottom of page 277 -- thank you --
9 under enforcement you discuss the fact that
10 FINTRAC issued a notice of violation in respect
11 of the BC Lottery Corporation, and the BCLC
12 challenged the fine imposed for that violation
13 before the federal court. So I just want to
14 address with you the last paragraph of this
15 section, which is actually on page 278. Move
16 forward. Where you wrote there just above the
17 heading "Regulatory Amendments":

18 "Ironically, the Federal Court challenge
19 ended after FinTRAC's entire scheme of
20 Administrative Monetary Penalties ... was
21 struck down by the Federal Court of
22 Canada."

23 Now, Dr. German, on Saturday I was contacted by
24 counsel for the commission at the request of
25 your lawyer to provide a sense of the topics I'd

1 be exploring with you on cross-examination, and
2 as part of my answer I suggested that he may
3 wish to alert you to the fact that I would be
4 asking some questions about this assertion.
5 Were you given that heads up, Dr. German?

6 A Yes.

7 Q Thank you. So, Dr. German, I suggest to you
8 that your use of the expression "struck down"
9 implies that the provisions in the federal
10 proceeds of crime legislation and the related
11 regulations that deal with administrative
12 monetary penalties were somehow found to be
13 unconstitutional by the federal court. But in
14 fact, Dr. German, the federal court never made
15 such a finding and has never struck down this
16 legislation, has it?

17 A Correct. And I do not say it's not
18 constitutional, and it really depends on if you
19 look at this as a lawyer or if you look at this
20 as a layperson. And quite frankly this is what
21 happened as a result of the *Kabul Farms*,
22 *HomeLife*, *ReMax*, I think it was, cases and I've
23 written about them in my text. *Max Realty*,
24 *HomeLife* and *Kabul Farms*. The net result was
25 that the administrative monetary penalty regime

1 became ineffective.

2 FINTRAC for two and a half years, as I
3 understand it, was unable to issue penalties.
4 It was essentially struck down. And that had a
5 ripple effect because not only registered
6 entity -- well, any entity registering or
7 reporting to FINTRAC is now in the position that
8 there is no downside, and fortunately most
9 entities probably continued reporting as they
10 had before, and I have no way of knowing if any
11 chose not to.

12 But there was no AMP scheme in effect for
13 two and a half years until a work-around was
14 developed, and you're familiar with that
15 work-around, so that FINTRAC is now able to
16 issue AMPs again. So from a lay perspective
17 this, in my opinion, is exactly what happened.

18 Q Dr. German, you are a lawyer; right?

19 A I am a lawyer.

20 Q And so you would agree with me, though, that at
21 no time did the Federal Court strike down this
22 legislation as being unconstitutional; did it?

23 A Correct, and I do not say that either.

24 MR. BRONGERS: Thank you. I have no further
25 questions, Mr. Commissioner.

1 THE COMMISSIONER: Thank you, Ms. Brongers.

2 Mr. Martland, I understand that Ms. George
3 is not available today, is that correct, for the
4 cross-examination?

5 MR. MARTLAND: Counsel for the Law Society has a
6 scheduling challenge, and so I've agreed that
7 she can reshuffle in the lineup to first thing
8 Tuesday morning. And so the next participant to
9 be called upon, I think would be the Society of
10 Notaries Public, although I don't expect -- I'll
11 let Mr. Usher address you if he has questions
12 and after that Mr. Smart for the Lottery
13 Corporation.

14 THE COMMISSIONER: Thank you. Yes, Mr. Usher.

15 MR. USHER: Thank you, Mr. Commissioner. Having
16 heard the testimony of the witness today, I have
17 no questions at this time. However, we've got a
18 long list of people coming up, and so I would
19 like to reserve the right to possibly pose
20 questions that arise from matters raised by
21 other participants.

22 THE COMMISSIONER: Yes, all right, Mr. Usher, you may
23 do so.

24 Mr. Smart on behalf of the BC Lottery
25 Corporation, who has been allocated 45 minutes.

1 MR. SMART: Thank you.

2 **EXAMINATION BY MR. SMART:**

3 Q Dr. German, I expect you'll agree that society,
4 police, different regulatory bodies and others
5 have a better understanding of money laundering
6 methods and techniques now in 2021 than they had
7 in 2011, for example?

8 A I would agree with you.

9 Q Yes. And as society's understanding has evolved
10 so have steps taken by different sectors to try
11 and minimize the risk of unintentionally
12 facilitating money laundering?

13 A Yes. I think particularly in the last few
14 years.

15 Q And we can all look at what the Law Society has
16 done over the last few years as good examples of
17 being careful to try to ensure you know your
18 client, concerns about cash being used, concerns
19 about trust accounts being misused. Those are
20 examples about the evolution of our
21 understanding and techniques to minimize the
22 risk. Do you agree with that?

23 A I agree with you.

24 Q You were nodding. I just wanted to make sure
25 that I had your -- it verbally.

1 A I'm nodding with every part of your question. I
2 agree with you, sir.

3 Q I hope you keep that up.

4 You've given some evidence about player
5 gaming accounts, and as you've said in your
6 report, Dirty Money number 1, Dr. German, gaming
7 was a cash business up until 2009, wasn't it?

8 A Yes. I don't know if a hundred percent, but it
9 certainly was a cash-based business, and still
10 is.

11 Q And what we saw around that period of time was
12 an increasing amount of cash coming into casinos
13 in the Lower Mainland, in particularly River
14 Rock. Correct?

15 A Correct.

16 Q And we had bags of cash coming in, hundreds of
17 thousands of dollars on occasion?

18 A Yeah, I couldn't tell you when the bags started
19 coming, but you're right, you know, in that time
20 frame we're seeing the huge increase in dollars,
21 huge increase in cash, \$20 bills, Suspicious
22 Transaction Reports, et cetera. Yes.

23 Q Yes. And it would be fair to say that the
24 casinos, BCLC, GPEB and others were grappling
25 with the issue of what's the source of these

1 large amounts of cash?

2 A I think that's fair, yes.

3 Q And one of the suggestions -- and I'm going to
4 ask you about this a bit further -- was these
5 player gaming accounts as a way of trying to
6 change the method that these people with large
7 amounts of money would come in, the method --
8 rather than using cash, let's have them use --
9 deposit bank drafts or other instruments into
10 these accounts in preference or bringing cash.

11 I haven't articulated that very well, but I
12 think you understand what I'm trying to suggest
13 to you, that it seemed a preferable method to
14 give access to people with apparent wealth that
15 wanted to gamble large amounts of money.

16 A I understand the question, and really you're
17 talking about cash alternatives and PGAs were
18 probably the first major cash alternative so to
19 speak. And yes, that definitely was -- I don't
20 know the exact motivation for PGAs in 2009,
21 whether it was for that reason or whether it was
22 convenience for the player. I may have known
23 that -- the answer to that three years ago, but
24 certainly it was moved towards cash
25 alternatives.

1 Q And it would be preferable to have a bank draft
2 or a cheque from the Royal Bank of Canada than a
3 bag of cash?

4 A It goes back to source of funds at the end of
5 the day. And now that might seem strange, but
6 if you know the source of cash, that is as good
7 as if you know the source of a cheque or a bank
8 draft. So it really depends on the quality of
9 the source of funds information that you have,
10 and we could talk about cash, we could talk
11 about bank drafts. I think it all comes back to
12 that same issue.

13 Q The advantage of a bank draft from the Royal
14 Bank of Canada is you know there's been some
15 vetting done by the bank, some due diligence.

16 A Well, herein lies the issue with bank drafts,
17 and there's been a lot talked about and written
18 about bank drafts. And the RCMP has been -- has
19 done in recent times work on bank drafts, and I
20 think this commission is going to hear from the
21 RCMP on that issue. Because bank drafts have
22 evolved over time as well.

23 The important thing, again, is to know the
24 source of the money that went into the bank
25 draft. And certainly if you're talking about

1 the Royal Bank, yes, the Royal Bank is a very
2 credible financial institution. No issue
3 whatsoever. It's really a matter of what's on
4 that bank draft and are there identifier -- is
5 there identifier information and what was the
6 nature of the source of funds work that was done
7 by the bank. Because the casino receiving a
8 bank draft from the bank becomes reliant on that
9 financial institution, on the Royal Bank, for
10 source of -- for the client in due diligence
11 sourced funds.

12 Q You've given some evidence about who should be
13 reporting to FINTRAC. And your evidence is that
14 it should be the service providers.

15 A Yeah, I look at it very simply, Mr. Smart, that
16 with most areas of involvement it's point of
17 sale that is critical, and we could say the same
18 thing for luxury cars. It is that dealer who
19 has a contact with the individual, and in the
20 casino environment it is the service provider
21 that has the contact with the client. So in an
22 ideal world, yes, in my opinion the service
23 provider should report to FINTRAC.

24 Q But under the legislation at present, it's BCLC
25 that has that obligation. You're aware of that?

1 A Well, I don't think it's quite that simple.
2 BCLC has conduct and manage. And I think it is
3 up to BCLC to decide how to deal with that
4 issue. And there are different arrangements, as
5 I explained earlier, certainly what I saw in
6 Ontario where you also have a conduct and manage
7 situation, the routing is slightly different.
8 And I think preferable.

9 Q BCLC has trained investigators. They have
10 access to information about the patrons. They
11 have access to whether the patrons are gambling
12 at other casinos. They have significantly more
13 information than the service providers, don't
14 they?

15 A That goes back to my earlier response,
16 Mr. Smart, in that they have that corporate
17 view. They have the view of other casinos.
18 They have the corporate view. But my report
19 also points out the fact that if the service
20 providers are going to be responsible for
21 submitting the Suspicious Transaction Reports
22 that they also have to up their game. And that
23 was part of the rationale for this is in a
24 standards-based regime I thought it was
25 important that the service provider not only be

1 given more responsibility but that there be a
2 greater onus on them.

3 Don't leave it all up to BCLC to ensure that
4 your customers and the money are both
5 appropriate and sourced. Ideally I think the
6 service provider should carry that onus to a
7 large degree. And that's why I like the system
8 of the service provider being responsible. Yes,
9 they would have to increase their anti-money
10 laundering compliance, you know, regime,
11 presumably have people on site training and so
12 forth. But in my opinion it would improve the
13 system.

14 Q Okay. You've given evidence that you're opposed
15 to a cash -- and I'm looking at the casino
16 industry, Dr. German. You're opposed to a cash
17 cap because that's a prescriptive solution. You
18 prefer a risk-based approach. Do I have that
19 accurate?

20 A Yeah. I think what you'll find is that there is
21 no cure system. So you do have -- even in the
22 Ontario system, which is risk based and
23 standards based, you will still have
24 prescriptive elements, and it -- but it falls,
25 you know, largely to the casinos to be

1 prescriptive in how they carry out their
2 business. But yes, generally speaking I agree.

3 Q Okay. We heard -- the commission's heard some
4 evidence from GPEB investigators that they were
5 recommending simply imposing at one point a
6 \$10,000 cap on \$20 bills and perhaps \$20,000 or
7 \$25,000, but that was the end of the analysis,
8 simply a cap. You don't agree with that, do
9 you?

10 A Well, for the reason -- correct. For the
11 reasons indicated, I think it's quite arbitrary.

12 Q Yes.

13 A Why 10? Why 25? Why 3? I think the issue,
14 again, is source of funds.

15 Q Okay. So I'm going to take you to a couple of
16 documents, ask you to look at a couple of
17 documents, Dr. German. I actually want to start
18 with a report that you did before you undertook
19 the investigation and Dirty Money report
20 number 1, and this was one that you did for GPEB
21 and BCLC.

22 MR. SMART: It is -- it's dated December 4, 2016, and
23 it's GPEB document 0104. If that could be put
24 up on the screen, please.

25 THE REGISTRAR: Sorry, Mr. Smart. I'm looking for

1 GPEB0104.

2 MR. SMART: Sorry, it's actually an exhibit I'm told.

3 It's exhibit 586, Madam Registrar.

4 THE REGISTRAR: Oh, I see. Thank you.

5 MR. SMART: Mr. Commissioner, this is a privileged
6 opinion, so it -- I'd like to refer to it, but
7 it shouldn't be publicly screened or exposed.

8 THE COMMISSIONER: All right. I'll make that
9 direction, Mr. Smart.

10 MR. SMART: Thank you.

11 THE REGISTRAR: For Mr. Hira's information, this
12 document is tab 60.

13 MR. R.R. HIRA: Thank you. I will -- what I'll do is
14 put this in front of Dr. German. So I'm going
15 to move over.

16 MR. MARTLAND: I know Mr. DelBigio doesn't like being
17 told to glance out his window, but he's present
18 on the call. I'll just ask Mr. Smart or other
19 parties if there's any concern with him seeing
20 the document on the Zoom display or not.

21 MR. SMART: There isn't from my perspective, thank
22 you. BCLC's perspective.

23 Q So I'll just -- at page 3 you set out your
24 mandate, Dr. German. You were asked to do --
25 under the mandate you were asked to do the

1 following. You list three, and I want to ask
2 you about the review of the compliance functions
3 under the *Gaming Control Act*.

4 A Yes.

5 Q And take you to page 7 -- actually, yes, page 7.
6 I think I'll go to page 8. Page 7 just to put
7 in context, under "Compliance Functions" you
8 first describe BCLC's responsibilities. And at
9 page 8, you -- the second paragraph, you note
10 that BCLC --

11 MR. SMART: I'm jumping around, Madam Registrar. I'm
12 sorry. Back one page, please. I'm sorry --
13 yes, page 7.

14 Q You note in the second paragraph that:

15 "BCLC has the onerous responsibility of
16 maintaining and growing the business of
17 gaming in British Columbia including
18 providing revenue to the province in
19 fiscal year 2015/16 over 1 billion
20 generated by gambling went into health
21 care, education and community
22 initiatives."

23 Down two paragraphs you've continued with that
24 analysis, and you say:

25 "BCLC must carefully balance the

1 objectives of revenue generation with the
2 objectives of social responsibility,
3 gaming security and integrity. Its vision
4 is to see that gambling is widely embraced
5 as exceptional entertainment for adults
6 and its mission is to conduct and manage
7 gambling in a socially responsible manner
8 for the benefit of British Columbians."

9 That was your view in December 2016, Dr. German?

10 A Yes. But that actually is a quotation, I
11 believe, right off the website of BCLC, their
12 vision and their mission.

13 Q Then I'll take you, please, to page 10 -- sorry,
14 page 9. You say in the second paragraph from
15 the bottom:

16 "In order to meet the compliance demands
17 placed upon it, BCLC has its own dedicated
18 division headed by the Vice President
19 security and compliance, BCLC
20 investigators and compliance employees
21 monitor service providers to ensure that
22 they conform to the law of policy and
23 procedures. These investigators are not
24 accorded peace officer or police officer
25 status requiring that they rely on the

1 common law authorities possessed by
2 citizens generally in the absence of
3 statutory powers in the *Gaming Control*
4 *Act*. BCLC compliance staff work in much
5 the same way as corporate security
6 officers in private industries."

7 That accurately captures the investigative
8 powers that BCLC investigators have?

9 A Yes. Actually, I'm sorry, I was just distracted
10 because -- did you want it on the screen, sir?

11 THE COMMISSIONER: It's fine to be on the screen
12 within the commission.

13 THE WITNESS: Oh, I see.

14 THE COMMISSIONER: It's just not being livestreamed.

15 MR. SMART:

16 Q I read that second -- that paragraph?

17 A Yes. Yep. Thank you. Yes, that appears to be
18 correct to me.

19 Q Yes. And then at the next page, page 10, you
20 pose this, you state:

21 "This leads exorbitantly to two questions.
22 Does BCLC have authority to conduct
23 investigations? If so, can they conduct
24 criminal investigations?"

25 And at the bottom of the page you say:

1 "BCLC staff can --"

2 Let's me just summarize. What you found is they
3 don't have powers to conduct criminal
4 investigations any more than the average
5 citizen, but they can conduct investigations
6 insofar as it involves their mandate as to try
7 to ensure the integrity of gaming.

8 A I agree with you, sir. The function is
9 corporate security. Corporate security is one
10 of their functions.

11 Q Yes. You then turn to GPEB. And at page 15 you
12 note that they have special provincial -- there
13 are Special Provincial Constables. And I think
14 just for sake of time, you were able to
15 determine pretty quickly that they do have --
16 GPEB has *Criminal Code* powers to investigate
17 crimes insofar as it's directly related to
18 gaming. Is that a fair statement?

19 A Yeah, there's two issues there, as I recall.
20 It's been a long time since I've looked at this
21 opinion or even considered this issue, but one
22 is what the statute says and then the second is
23 how that role has been in some ways
24 circumscribed by policy and practice from police
25 services branch or whatever the name of that

1 unit is at present.

2 But my recollection is they do have, as you
3 see here, Special Provincial Constable status.
4 And if a matter that they were looking at and
5 from a regulatory perspective has a criminal
6 aspect to it, they can continue on and work on
7 that criminal aspect. You then get into the
8 issue of -- and I think it's mentioned here --
9 notifying local police and so forth.

10 Q And I'll take you to page 18 where you summarize
11 as a third finding of fact:

12 "GPEB investigators have authority to
13 investigate offences under the *Gaming*
14 *Control Act* and in their capacity as
15 Special Provincial Constables, they're
16 entitled to pursue *Criminal Code*
17 investigations which inextricably flow
18 from the foregoing."

19 And that was a finding that you made?

20 A Yes.

21 Q And so I'm just going to take you to one other
22 passage in this report that you did, but it
23 appears clear, then, that -- to you that GPEB
24 had the authority, their investigators, to --
25 within the limitations of their resources but to

1 conduct some investigations into the source of
2 funds of cash coming into casinos. Do you agree
3 with that?

4 A That gets a lot more complicated, if I may say,
5 sir, because we run into this issue of whether
6 or not they have the statutory authority to deal
7 with money laundering. And therein has been one
8 of these problematic areas for many years in
9 terms of who has that responsibility. And I
10 don't think it's clear -- it wasn't clear to
11 me -- that GPEB felt they had the authority
12 and -- to investigate money laundering. And I
13 believe they had been told that by various
14 people as well.

15 Q But your analysis of their powers suggested
16 otherwise, didn't it? They had the power to
17 investigate -- they could have at least done
18 this, Dr. German. They could have gone into a
19 casino and be present when large amounts of cash
20 were being brought in and asked the patron who
21 brought it in, where did you get it from?

22 A I would agree with you on that for sure.

23 Q Yeah, and we've heard some evidence that in fact
24 it appears that's what GPEB is going to be
25 doing. They've got an enlarged group of

1 investigators. They're going to be going to
2 casinos in the evenings, not just in offices
3 from 9:00 to 5:00, they're going to be
4 interviewing patron and they may even seize
5 funds if they have a sufficient basis to believe
6 it's the proceeds of crime.

7 That's consistent with your finding as to
8 their Special Police Constable status, isn't it,
9 that they can carry out those functions?

10 A With the caveat that I think this issue of their
11 role with anti-money laundering should be
12 specified in the statute so it is very clear
13 because it has posed a problem in the past. So
14 I take what your -- the premise of your question
15 that they're going to do this. I'm not
16 personally aware of that. I take that as a
17 given. I'm not too sure how they've dealt with
18 that issue of it not being in the statute, which
19 seems to have been the kicker up to now. But if
20 they've resolved that, that would be a healthy
21 thing from my perspective.

22 Q And I just want to take you to page 41, then.
23 You ...

24 MR. SMART: Page -- sorry, Madam Registrar. Thank
25 you. The heading "the big picture." At

1 page 41, Madam Registrar. Thank you.

2 And I'll take you -- at the bottom of the
3 page considering the big picture, the world of
4 gaming, you start bit of a review of gaming in
5 other countries.

6 Just go up a little bit, please, Madam
7 Registrar, at the very bottom of that page.

8 THE WITNESS: I think it's the other direction again.

9 MR. SMART: Yeah, the other way, Madam Registrar.

10 Sorry.

11 Q "Internationally the move to e-gaming --"
12 And then continuing over to page 42 you refer to
13 Britain, you refer to markets in Asia. And then
14 down -- about two thirds of the way down the
15 page you state:

16 "Closer to home, Ontario has a unique
17 compliance and enforcement regime in which
18 the Ontario Provincial Police has a large
19 dedicated casino enforcement unit.

20 Although the system may work effectively
21 for Ontario, the visible presence of
22 police in a gaming facility is out of step
23 with best practices in their international
24 gaming world."

25 You wrote that in your report. Was that -- is

1 proceeds of organized crime and were
2 laundered by high-limit patrons. Some
3 unwitting, others not. What is most
4 troubling is the degree of sophistication
5 demonstrated by criminal syndicates which
6 work for many years in unison across
7 continents to target BC casinos."

8 That was your assessment at that time?

9 A Well, if I may say, that chapter -- the issue
10 that kept coming up -- and I'm sure that you
11 have heard it and the Commissioner has heard it
12 in terms of money laundering is predicate
13 offence. And as I'm going through my first
14 review, I'm hearing a lot of alternate
15 explanations for why all this money is coming
16 in. And at the end of the day, I wanted to find
17 out okay, where -- what is the predicate
18 offence; where is this coming from; how can we
19 nail that down.

20 Now, keep in mind with my report I don't
21 have any coercive powers. All I can do is talk
22 to people and review documents and so forth.
23 Speaking to the RCMP from my perspective gave me
24 that answer, and that's what this chapter does,
25 is explains what the RCMP had found. And I've

1 included a couple of charts which show the flow
2 of money and that takes you to this Vancouver
3 Model. And once I saw that I said okay, from my
4 perspective that explains to me what is taking
5 place. And it was consistent with what I had
6 heard from witnesses, it was consistent right
7 back to 2010, 2011, the observations of GPEB and
8 so forth. So yes, that was my conclusion.

9 Q We heard evidence from Mr. Vander Graaf. He was
10 one of the people you interviewed?

11 A Yes.

12 Q Yes. He told the commission that this cash,
13 these large cash transactions, they couldn't
14 establish or couldn't be established on --
15 beyond a reasonable doubt that this was the
16 proceeds of crime. And you even went further,
17 Dr. German, and said we couldn't even establish
18 on a balance of probabilities it was the
19 proceeds of crime. So you had the benefit,
20 didn't you, of being able to look back in
21 hindsight given what the police now knew in
22 assessing these large cash transactions; fair?

23 A Well, if I may explain.

24 Q Of course.

25 A Yes. Thank you. Mr. Vander Graaf at the time

1 was a regulator, and I'm assuming he's speaking
2 from the perspective of the regulator. And I
3 did not hear that -- you know, I take it as a
4 given that he said that and that is consistent
5 with him being a regulator and not knowing the
6 predicate offence, and that is really one of the
7 issues that was troubling me. It's that, let's
8 get back to the predicate offence.

9 So when I spoke to the RCMP and they came
10 forward with this material, to me it answered
11 that question. Did the RCMP acquire that
12 information very recently, shortly before my
13 visit or a long time earlier or was it, you
14 know, an accumulation over time or was it
15 related directly to the two files that they had
16 ongoing in 2015? I can't answer that one.

17 Q All right. But you had the benefit of the
18 police saying to you, this is proceeds of crime?

19 A Correct.

20 Q And hindsight is always 20/or 20 or usually
21 20/20?

22 A Well, hindsight is certainly helpful.

23 Q Yes. If I can take you, please, to your report.
24 To page 126, paragraph 529. And I should --
25 just before I read this to you, I was going to

1 take you to the Kroeker report. I'm already
2 running out of time. Do you recall that in
3 Mr. Kroeker's report what he said is that BCLC's
4 responsibility is to report and it's up to law
5 enforcement to determine the origins of these --
6 of these large cash transactions entering
7 casinos. These are my words, but do you agree
8 with that or do you want me to take you to the
9 report?

10 A I'd have to be refreshed to be honest with you
11 on that one.

12 Q All right. Let me -- I'll do that. I'll seek
13 permission to do that, but let me take you to
14 what I have so we're not pulling documents on
15 and off. You write:

16 "By late 2014, BCLC became concerned over
17 the influence of organized crime in the
18 casinos. Its Vice-President Compliance
19 attempted to interest the RCMP in what was
20 occurring. He reached out to various
21 agencies, including CFSEU-BC, Richmond
22 Detachment and FSOC."

23 MR. SMART: Just down -- just carry on that
24 paragraph, please, Madam Registrar, at the top
25 of the next page:

1 "According to BCLC's AML unit, we 'had to
2 sell ourselves to --'"

3 You've put in

4 "'-- [RCMP] units.' They 'got lucky' with
5 FSOC through a personal connection between
6 the Director of the AML unit and a senior
7 RCMP officer."

8 You state -- when you say by late 2014, BCLC
9 became concerned over the influence of organized
10 crime, that's not really accurate, is it,
11 Dr. German, in the sense that they were
12 concerned about the presence of organized crime
13 and these large cash transactions long before
14 late 2014. Do you agree?

15 A Well, I know that when Mr. Desmarais came in
16 around that time -- I would have to -- I'm not
17 sure exactly when he came in -- Mr. Desmarais
18 created, as I understand it, the anti-money
19 laundering at BCLC. And what I was told is that
20 the focus changed and there was this concern,
21 and Mr. Desmarais -- I believe is who we're
22 referring to here -- did try to interest the
23 RCMP.

24 So did his predecessor have the same
25 interest in dealing with organized crime, I

1 can't answer that categorically. I do know what
2 I state here, that Mr. Desmarais, BCLC became
3 concerned, and that's when the selling process,
4 as I put it, took place with the RCMP. And it
5 was ultimately successful.

6 Q Were you aware, Dr. German, that BCLC for
7 several years had been sending -- their
8 Suspicious Transaction Reports that they were
9 sending to FINTRAC, they were sending it to law
10 enforcement as well?

11 A There's no question about that, yes.

12 Q And the reason obviously would be because they
13 wanted law enforcement's assistance to
14 investigate.

15 A Whether it was a requirement that they do it or
16 whether it was for that purpose, yes, I would
17 agree with you.

18 Q All right. You're aware of the -- when the --
19 Mr. Desmarais became Vice President of
20 compliance, are you aware of his background? He
21 was an experienced police officer with great
22 experience dealing with money laundering?

23 MR. R.R. HIRA: Sorry, we lost you, Mr. Smart, the
24 last part of your question.

25 MR. SMART:

1 Q You're aware that Mr. Desmarais, who became the
2 Vice President of compliance had extensive
3 police experience investigating money
4 laundering; correct?

5 A Yes. Correct.

6 Q He worked with you at some point, didn't he?

7 A We never worked together, but we were
8 colleagues, and he had been with the Vancouver
9 Police Department for many years but seconded to
10 the RCMP, and he was an excellent proceeds of
11 crime investigator. I was not in the unit with
12 him, but I certainly knew of Mr. Desmarais, and
13 I knew that he was held in high regard. And he
14 eventually branched over and joined the RCMP,
15 became a commission officer in the RCMP. And at
16 that point -- I would have to check in terms of
17 dates and timing, but I believe I was the Lower
18 Mainland commander at the time that he was
19 working as an officer at our Burnaby detachment.

20 Q Okay. And you'll agree with me he didn't join
21 BCLC to help organized crime launder proceeds?

22 A Not at all.

23 Q And he set up an AML unit. You're aware of
24 that? An anti-money laundering unit.

25 A Correct.

- 1 Q He hired an analyst?
- 2 A Yes. They have analysts and investigators.
- 3 Q Yes. And he was trying to -- I'm going to
4 suggest -- you may or may not know this. We've
5 heard some evidence of this. That he -- that
6 in April of 2013 BCLC made a PowerPoint
7 presentation to Cal Chrustie and other senior
8 RCMP officers at Green Timbers. Were you aware
9 of that?
- 10 A Did you say April of 2013?
- 11 Q Yes.
- 12 A And, sorry, who made the presentation to Cal
13 Chrustie and others?
- 14 Q Other BCLC investigators.
- 15 A Okay, you're not referring to Mr. Desmarais?
- 16 Q No.
- 17 A Oh, okay. That could be.
- 18 Q You don't know one way or --
- 19 A Well, sir, it's been a long time since I wrote
20 this report. If it's in my report, if you can
21 refer me to it, but it is possible. I just
22 don't have an active recollection of that today.
- 23 Q And it was BCLC that arranged an information
24 sharing agreement with the RCMP in early 2014.
25 You're aware of that?

1 A Yes. And I believe that was under
2 Mr. Desmarais's as well. That was the other
3 thing. One of the other initiatives he brought
4 with him.

5 Q Yes. Mr. Desmarais has given evidence that in
6 April he wrote to the officer in charge of
7 every -- April 2014 he wrote to the officer in
8 charge of every RCMP detachment in BC with a
9 gaming facility advising them of the information
10 sharing agreement and requesting they share
11 information regarding what he called
12 undesirables so they could ban them. Were you
13 aware of that?

14 A Again, I don't have an active recollection. I
15 don't doubt it.

16 Q Yeah. That in April of 2014 BCLC met at Green
17 Timbers with CFSEU to request assistance
18 targeting the Jin group cash facilitators. Were
19 you aware of that?

20 A Again, I don't have an active recollection. If
21 it's in my report, please refer me to it. But,
22 you know, generally --

23 Q It's not.

24 A Oh, okay. Generally speaking it's clear that
25 Mr. Desmarais -- and that's why that paragraph

1 is in there that you referred to earlier --
2 reached out and attempted to interest -- sell
3 this -- the concerns with organized crime to the
4 RCMP.

5 Q Were you aware that in June BCLC and the Great
6 Canadian Casino hosted CFSEU at the River Rock
7 to show them facilities and again request that
8 they investigate Jin and others?

9 A Again, I don't have an active recollection.
10 It's quite possible.

11 Q Were you aware in July that BCLC provided a
12 target sheet to CFSEU with its top 10 suspected
13 cash facilitators?

14 A I don't have an active recollection of that.

15 Q My point is this is your paragraph that -- in
16 late 2014 BCLC became concerned over the
17 influence of organized crime and attempted to
18 interest the RCMP. They had been concerned for
19 many months before then. Do you disagree with
20 that?

21 MR. R.R. HIRA: Well, his evidence is that he doesn't
22 have an active recollection. You've put
23 propositions to him. All he can write about is
24 what he knows.

25 MR. SMART: Yes. Well, let me put it differently,

1 then, Mr. Hira.

2 Q It's inaccurate, Dr. German, to say that they
3 became concerned in late 2014. If the
4 information I've provided you is accurate, they
5 became concerned before that period of time,
6 didn't they?

7 A Yeah, I would like -- if I could see that
8 paragraph again. I've still got the legal
9 opinion in front of me here on the screen. I'm
10 not too sure ...

11 Q It's paragraph 529.

12 THE REGISTRAR: Mr. Smart, would you like me to go to
13 that page?

14 MR. SMART: Yes.

15 THE REGISTRAR: Sorry, which page is it?

16 MR. SMART: It's page 126. Exhibit 830 ...

17 THE WITNESS: I've got it in hard copy here. Yep.

18 So certainly my recollection of this is that
19 when Mr. Desmarais came on board, he set about
20 interesting the RCMP and had this interest in
21 dealing with organized crime. He also, as
22 you've indicated, initiated the information
23 sharing agreement. Now, what date he actually
24 joined BCLC and when they started the sales, so
25 to speak, to the RCMP, I can't recall. But for

1 whatever reason at the time when I wrote -- what
2 you see there is I believed it was by late 2014.

3 Q You had an hour and a half interview with
4 Mr. Desmarais and Mr. Lightbody and Mr. Kroeker
5 early in your investigation, and that was the
6 extent of your involvement with Mr. Desmarais
7 other than to do with the computer system, the
8 SAS system. Isn't that fair?

9 A I believe that's fair.

10 Q Yeah. Once the RCMP conducted this
11 investigation that we know as E-pirate, that had
12 a significant impact on -- well, let me start
13 again.

14 That investigation was described by
15 Mr. Lightbody when they got information from the
16 police that organized crime was laundering money
17 in the casinos as a pivotal moment. Do you
18 agree that that appeared to have had a
19 significant impact on both GPEB and BCLC when
20 they gained that knowledge from police?

21 A It's -- the GPEB knowledge -- GPEB was --
22 certainly their executive director was struck by
23 the amount of 20s, and I believe that was as a
24 result of an Excel spreadsheet in 2015. And
25 BCLC, as you've indicated, became interested --

1 or as I've indicated in my report became
2 interested in selling this to the RCMP. So I
3 think both entities were eager to see something
4 done for their own reasons. They both came to
5 this conclusion. And then when the RCMP came in
6 there in mid-2015, I think both entities were
7 quite pleased to see them back in the game, so
8 to speak. Yes.

9 Q Well, if I'm right in what I've suggested to
10 you, BCLC had been trying to get law enforcement
11 into the game for months, if not years.

12 A Yeah, and as I say in my report, Mr. Smart, the
13 RCMP essentially eliminated their proceeds of
14 crime unit in -- I think it's 2013, and there
15 was really no police presence in the casinos
16 other than for the routine matters that you
17 would have in terms of impaired drivers and, you
18 know, assaults and so forth that the local
19 detachment or police force would do. So there
20 was no police presence there for a number of
21 years and that was a problem.

22 And yes, BCLC, as we've discussed, wanted to
23 get them back involved, and yes, GPEB when they
24 realized the extent of the issue, they also, I
25 would suggest, wanted to get them back involved.

1 Q So I guess my point is this. You've been --
2 you're a former RCMP, a Deputy Commissioner,
3 you're fair to the RCMP, you understand the
4 priorities and limitations of resources. But if
5 the RCMP had put the effort they put in E-Pirate
6 into these large cash transactions years before,
7 we might never even be at this public inquiry
8 now?

9 A No, I wouldn't agree with that. And I'll tell
10 you why, sir. The responsibility for dealing
11 with these large cash transactions has to at the
12 end of the day fall upon whoever is receiving
13 the cash and the regulators to deal with it.
14 There is absolutely no way that the police can
15 be looking at every transaction, every large
16 transaction -- and there was so many of them as
17 you pointed out earlier in your questioning.
18 There was boxes coming in, there were bags of
19 money and so forth.

20 There's no way that the police had the
21 resources -- you'd need almost, you know,
22 infinite resources to attempt to deal with every
23 one of those money pickups. It would be no
24 different than you'd have to have a police
25 officer at every teller's cage at a bank. So

1 the responsibility -- and that's why our
2 proceeds of anti-money laundering legislation is
3 what it is. There's a responsibility on the
4 regulated entities to deal with these things and
5 it's back to source of funds.

6 But I would certainly agree with you that
7 you have to have that enforcement component as
8 well. And that enforcement component was
9 missing for a number of years, and that is
10 definitely a problem.

11 Q And after E-Pirate, at least after the
12 investigation became public, there was steps
13 taken, the police provided information to BCLC
14 and GPEB and the number of \$20 bills and
15 suspicious cash transactions dropped
16 significantly, didn't it?

17 A Well, there's lots of charts available to deal
18 with that, and you do see a progressive decrease
19 from mid-2015 and onward through 2016, and then
20 2017 is when I became involved.

21 MR. SMART: All right. I've run out of time,
22 Dr. German. Thank you for answering the
23 questions.

24 THE WITNESS: Pleasure, sir.

25 THE COMMISSIONER: Thank you, Mr. Smart.

1 I'll now turn to Mr. Skwarok on behalf of
2 the Great Canadian Gaming Corporation, who has
3 been allocated 30 minutes.

4 **EXAMINATION BY MR. SKWAROK:**

5 Q Dr. German, can you hear me all right?

6 A I can, sir, thank you.

7 Q Could you please describe the degree of
8 cooperation that Great Canadian showed to you
9 when you were preparing your report?

10 A Excellent.

11 Q And did that degree of cooperation extend to
12 senior management of the company?

13 A Yes. In fact senior management reached out to
14 me as I was just starting my work, and I met
15 with the CEO, the COO and the chief compliance
16 officer, as I recall, along with Mr. Malysh very
17 early on.

18 Q You suggest in your report that -- and I'm
19 paraphrasing -- you're not so naive as to fail
20 to recognize it was in their self-interest to
21 assist you. Correct?

22 A Of course.

23 Q Yeah. But their motivation may very well have
24 been simply to help you to get to the bottom of
25 the question of money laundering in casinos;

1 correct?

2 A They are a corporate entity and it is important
3 for them, I think, in a situation like this to
4 cooperate. I think that's what their
5 shareholders would expect. And yes, they were
6 cooperative, and I have no issue there.

7 Q My point is a little bit different, though, and
8 that is you're not foregoing with the
9 possibility that the motivation to cooperate
10 with you was to help you get the answers you
11 were looking for; correct?

12 A No, no.

13 Q Did Great Canadian ever refuse to give you
14 anything that you asked for?

15 A No, they did not.

16 Q Did they provide information that you requested
17 promptly?

18 A Yes, they did.

19 Q In your report you describe the difference
20 between a risk-based and a prescriptive based
21 compliance model. And we've got a prescriptive
22 model in British Columbia. Do you agree that
23 under this model service providers like Great
24 Canadian are obliged to focus on the anti-money
25 laundering rules that are set out by BCLC and

1 GPEB?

2 A Yes.

3 Q And will you agree, sir, that the primary focus
4 of service providers in the anti-money
5 laundering regime is to report unusual financial
6 transactions and large cash transactions?

7 A Well, I think compliance is more than simply
8 reporting, and I try to outline that. And
9 again, it goes back to the whole regime that we
10 have here in Canada with respect to reporting to
11 FINTRAC. It's not just reporting; it's having a
12 compliance system in place, which Great Canadian
13 had. And providing training, which Great
14 Canadian did. So there are certain
15 responsibilities that go along with it in
16 addition to reporting. Reporting is just one
17 aspect of that -- the bigger picture of
18 compliance.

19 Q Fair enough. And I won't quibble. But in order
20 for an entity to properly report, its employees
21 must have been trained on how to do it
22 correctly; correct?

23 A Correct.

24 Q And I believe you just said that Great Canadian
25 did that, it trained its employees?

1 A To my knowledge they did, yes.

2 Q Did you find that Great Canadian religiously
3 filled out the necessary anti-money laundering
4 forms?

5 A Well, no, I can't say that. The forms were
6 filled out. But as I've pointed out and as
7 staff told me, after a while there were so many
8 Suspicious Transaction Reports being filled out
9 that after a while it was becoming quite rote,
10 so to speak. And that is where we get into this
11 issue of occupations. Very little information.
12 Essentially what people were telling them, they
13 were writing down. And there's a reason why
14 that happened. There was also a time when there
15 was an absence of reporting below the \$50,000
16 threshold. So, you know, in terms of my answer,
17 I would caveat it that way.

18 Q And what you're I think focusing on in that
19 answer is a confusion over the ability or need
20 to report \$50,000 and under transactions?

21 A Well, sir, there should be no confusion under
22 the legislation. The legislation is very clear
23 when it comes to suspicious transaction
24 reporting. I think the confusing is how this --
25 how things got off the rails, and from my

1 review, there was a fair bit of, you know,
2 finger pointing. Was it GPEB? Was it BCLC?

3 At the end of the day it was -- the matter
4 reached Mr. Kroeker's attention, who was then
5 the compliance officer for BCLC, and he dealt
6 with it and filed a -- filed the necessary form
7 with FINTRAC to advise what had taken place. I
8 don't know if I really satisfactorily learned
9 how this actually got off the rails in the first
10 place.

11 Q All right. Do you agree that Great Canadian has
12 a track record for complying with applicable
13 laws and regulations and following all money
14 laundering requirements for service providers
15 with the caveat you just provided on the
16 \$50,000?

17 A Yes. And also the caveat that I mentioned in
18 terms of the extent of reporting, the degree of
19 reporting. But, you know, generally speaking, I
20 was quite impressed by the compliance officer at
21 Great Canadian. He took his work very
22 seriously. And I also spoke with the compliance
23 officer for the River Rock Casino -- or I don't
24 know if she was the overall compliance for the
25 casino or for the shift that I was talking to,

1 but very impressed by her as well.

2 Q You formed the opinion that Great Canadian took
3 compliance very seriously; is that fair?

4 A The compliance officer took it seriously in my
5 opinion, and the very fact that lots and lots of
6 reports were going forward, Large Cash
7 Transaction Reports, Casino Disbursement
8 Reports, Suspicious Transaction Reports, tells
9 me that Great Canadian was reporting, again,
10 with the caveats that I mentioned.

11 Q Did you ever uncover evidence that Great
12 Canadian ever intentionally or knowingly
13 attempted to cover up potential money laundering
14 activities?

15 A Well, my exercise was not a criminal
16 investigation. It was not a fault-finding
17 exercise. I was just trying to discover what
18 took place and how can we in the interests of
19 the province of British Columbia improve what
20 was taking place. So it really gets back to --
21 I sound like a broken record -- source of funds
22 and the degree to which require into the source
23 of funds.

24 So should -- and not just Great Canadian.
25 Should all the service providers have done more

1 in terms of determining source of funds than
2 they did? You know, where does responsibility
3 lie? It wasn't an issue for me, so you know, I
4 didn't form a conclusion one way or the other on
5 that.

6 Q Fair enough. But in your interviews and
7 investigation did you come across any suggestion
8 that Great Canadian was intentionally or
9 knowingly trying to breach the rules?

10 A No. No.

11 Q Thank you. In your report you talk about GPEB
12 and how certain people working there had
13 concerns about large sums of cash coming into
14 the casinos and suggesting they might have been
15 the proceeds of crime; correct?

16 A Correct.

17 Q And to your knowledge did GPEB itself through
18 the General Manager agree with that concern,
19 that the proceeds were -- or that money was the
20 proceeds of crime?

21 A It depends on the time frame that we're talking
22 about. So in 2010, 2011, if we're talking about
23 Mr. Vander Graaf and Mr. Schalk, Mr. Vander
24 Graaf was in charge of investigations, they were
25 an office in Burnaby and they were in many ways

1 an island to themselves. The rest of GPEB
2 was -- or at least the great bulk of GPEB was
3 over in Victoria, and, you know, I've outlined
4 the issues in the report that transpired between
5 them.

6 But if you fast forward to, let's say, the
7 2015 area, you've got a different people in
8 place. Mr. Meilleur. Len Meilleur was the
9 executive director, the man -- I forget his
10 exact title, but he was the executive director.
11 And after that Excel spreadsheet issue came to
12 afore, he became very interested in this issue.
13 So I think it really is a matter of what time
14 period and who we're talking about.

15 Q Do you agree that it was in the summer of 2015
16 that the RCMP first provided concrete evidence
17 and concerns that there was -- might have been
18 money laundering through casinos?

19 A I think it's almost the reverse. You know, to
20 pick up on Mr. Smart's questioning, you have
21 BCLC and the service provider, Great Canadian,
22 actually reaching out to the police, and then
23 the police did start -- whether it was an
24 investigation or a probe in advance of an
25 investigation, they did do some inquiries and

1 they came back and they essentially
2 substantiated, yeah, there is something going on
3 here. And I think there was some terminology
4 they used that they found the gold mine or
5 whatever it was at that time.

6 Q Certainly Great Canadian had raised with the
7 police concerns, but I'm talking more about the
8 RCMP confirming that there were concrete reasons
9 to be concerned about money laundering in 2015.
10 Do you agree with that?

11 A Yes.

12 Q All right. There's been evidence that GPEB
13 prepared internal reports setting out concerns
14 about money laundering. Are you aware that
15 these reports were not provided to Great
16 Canadian?

17 A I'm not aware of the dissemination of where GPEB
18 reports went to, and so I really can't answer
19 that.

20 Q To your knowledge did anyone at GPEB tell Great
21 Canadian to limit the size of cash buy-ins or to
22 adopt any other anti-money laundering procedures
23 that it wasn't already taking?

24 A I'm sorry, did GPEB notify Great Canadian to
25 limit? I'm sorry. Could you -- would you mind

1 repeating that.

2 Q Yeah. It wasn't a great question. I'll do it
3 in two parts.

4 To your knowledge did anyone at GPEB tell
5 Great Canadian to reduce or to otherwise limit
6 the size of cash buy-ins?

7 A Actually to limit the cash buy-ins themselves,
8 no, I'm not aware that they did.

9 Q Are you aware of any direction coming from GPEB
10 to Great Canadian about anti-money laundering
11 procedures that Great Canadian wasn't already
12 taking?

13 A Yeah, I'm -- my understanding is that those
14 types of directives, if there were any, would go
15 from GPEB to BCLC and then BCLC to the service
16 providers. So I'm not aware of -- the strict
17 answer to the question is no with that caveat.

18 Q Right. Which I guess leads me into my next
19 question. Could I please ask you to go to
20 paragraph 508 of your report, which is
21 electronic page 125. Do you have that?

22 A I have that, sir, yes.

23 Q I'm just going to take you to the first
24 sentence. You write:

25 "During 2013 and 2014, the Executive

1 Director and the Senior Director of
2 Investigations at GPEB had all but stopped
3 dealing with GCGC and BCLC, because of
4 their differences over the handling of
5 suspicious money."

6 And in reality, sir, it was -- the differences
7 might have been between BCLC and GPEB but not
8 Great Canadian; correct?

9 A Well, I wrote that for a reason and, you know,
10 we're talking over three years ago. I think as
11 I mentioned earlier, the executive director and
12 the senior director at that time really became
13 an island to themselves in Burnaby. There were
14 considerable differences between them and BCLC,
15 and they also did not, as I recall, feel that
16 they could direct GCGC or Great Canadian. So
17 yes, they were not, as I understand it, dealing
18 with either on this issue anyway.

19 Q Well, I think you just said that for these types
20 of issues generally the communications were
21 between GPEB and BCLC. Is that not so?

22 A I think so, yes.

23 Q Mr. Vander Graaf, who you know was the executive
24 director of GPEB, testified that Great Canadian
25 was cooperative and complied with directions of

1 GPEB. Do you have any reason to disagree with
2 that?

3 A Not at all.

4 Q And you have no reason to believe that if GPEB
5 says don't do something or to do something that
6 you have no reason to think Great Canadian
7 wouldn't comply; correct?

8 A No reason. Correct.

9 Q All right. And can you say the same thing about
10 your observations of Great Canadian complying
11 with BCLC directions?

12 A Well, again, we get into that issue of --

13 Q The \$50,000.

14 A Filling out the forms and the \$50,000. So were
15 they complying with BCLC instructions in terms
16 of how they were filling out the forms? Who --
17 yeah, who made the decision on the \$50,000? So,
18 again, I'm not aware of Great Canadian at any
19 time saying, you know, we refuse to do what BCLC
20 wants us to do. Not at all. I think they as
21 well as the other service providers were very
22 compliant with instructions. But I do maintain
23 those two caveats.

24 Q Sure. And in your discussions with BCLC did
25 they communicate anything other than that Great

1 Canadian was cooperative?

2 A No.

3 Q All right. And when the police finally got
4 involved in investigating potential money
5 laundering, did you determine how cooperative
6 Great Canadian was with respect to police
7 requests for information?

8 A They were very cooperative, not only with
9 requests but also with access. And I'm thinking
10 there as I recall, into the surveillance area,
11 which is quite extensive at the River Rock.

12 Q In your report, I think you said that River Rock
13 provided enormous support when requested by the
14 police often on short notice. Do you agree with
15 that still?

16 A Yeah, I agree with that.

17 Q Is it true that you became aware that most of
18 the information used by GPEB, BCLC and the RCMP
19 in their analysis of potential problem with cash
20 transactions originated with Great Canadian in
21 the form of its reports and videos?

22 A Yes. Certainly the videos were, as we know,
23 very telling, and they come from Great Canadian.
24 And in terms of reporting, anything -- there is
25 no question that the reports were going forward.

1 There were lots of reports. Again I'd add the
2 caveat in terms of quality of reporting, but
3 that's a separate issue.

4 Q All right. In your report you mentioned cash
5 dropoffs in the River Rock parking lots. And
6 then there was a period of time where these
7 dropoffs were made by so-called cash
8 facilitators and given to patrons to buy in at
9 the casino. You recall that part of your
10 report?

11 A Yes. I think it arises probably in two aspects.
12 You've got the loan sharks in the early days and
13 their activities, which I try to describe, but
14 then you get into this period, let's say roughly
15 from 2010 to 2015, where you have the large
16 dropoffs where, you know, it's become more of an
17 organized crime laundering as opposed to a loan
18 sharking. So yes.

19 Q And are you aware, sir, that during that time
20 frame, in and around 2015, that Great Canadian
21 took the initiative in bringing to the attention
22 of the police concerns about these cash
23 dropoffs?

24 A I think that's fair. That's where they got the
25 videos. That's where they found out about it.

1 Q And it actually was Great Canadian that made the
2 initial direction that cash dropped off in the
3 parking lots couldn't be used for buy-ins;
4 correct?

5 A Well, that's the interesting issue that I raise
6 in the report, that, you know, various people
7 were being banned and so forth, and that's a
8 good thing. But in terms of actual refusal of
9 cash, I spoke to tellers, I spoke to compliance
10 folk at Great Canadian, and I talked to the
11 compliance officer. And I outlined how on one
12 occasion I think the compliance officer finally
13 had had enough and he said no more, and the
14 tellers and the -- or the cage personnel that I
15 talked to were very pleased to have heard that
16 from him, and I then verified that he did in
17 fact -- and I think they even showed me the
18 direction that he gave.

19 Q And so the direction came from Great Canadian,
20 not from BCLC and not from GPEB; correct?

21 A Well, yeah, the only thing that I would just add
22 to that is you mentioned from outside. I mean,
23 this is cash that was brought into the cage. So
24 I don't know if it came from, let's say, the
25 parking lot or where it came from. All I know

1 is that this large amount came into the cage and
2 he said no more. And that, as I understand it,
3 was the compliance officer's own decision.

4 Q Made independently of direction by the
5 regulators; correct?

6 A Of anybody as far as I know.

7 Q Now, in fairness to BCLC it did shortly
8 thereafter enact a policy that when it was
9 seeing that cash was being dropped off in a
10 parking lot it was not to be used for buy-ins,
11 but the point being that Great Canadian took the
12 initiative.

13 And you certainly did praise the head of
14 compliance for taking that initiative. But
15 you're sufficiently sophisticated in the ways of
16 corporate hierarchies that no head of a
17 compliance could make such a major decision on
18 his own; correct?

19 A I would like to think that a page person, a
20 teller could make that decision. That is one of
21 the reasons why I think it's important to have a
22 regulator and/or police present to deal with
23 those issues because that's the very function of
24 our anti-money laundering regime is that we
25 don't accept these dollars. So I would like to

1 think the compliance officer could make that
2 decision independently and I would like to think
3 that he would be supported by that by senior
4 management, and I have every reason to believe
5 that he was because he continued as the
6 compliance officer.

7 Q Right. And, again, I'm trying to focus on the
8 cash dropoffs that were brought in because that
9 was the focus of the direction that came from
10 the head of compliance. You have no reason to
11 disbelieve me when I say that the head of
12 compliance got approval from senior management
13 before implementing that rule; correct?

14 A I have no reason to disbelieve that. No, sir.

15 Q That would be a reasonable inference, wouldn't
16 it?

17 A It's entirely possible.

18 MR. SKWAROK: Thank you, sir. Those are my
19 questions.

20 THE WITNESS: Thank you, sir.

21 THE COMMISSIONER: Thank you, Mr. Skwarok. I'll now
22 call on Ms. Bevan on behalf of Gateway Casinos &
23 Entertainment Ltd., who has been allocated
24 10 minutes.

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

1 laundrying, in my mind, clearly was occurring.
2 And I can give you all sorts of rationale why I
3 believed that, but I was not prepared to say
4 that it was done wittingly by the casinos.

5 In fact, there were a lot of alternate
6 explanations given through the years for what
7 was taking place, none of which I put much
8 credence in now. But, again, as I mentioned
9 earlier, we have the benefit of hindsight. So I
10 did spend a lot of time on that sentence.

11 Q Mr. Skwarok asked you -- I think his question
12 was in reference to paragraph 260A of your
13 report which appears on page 70 for your
14 reference. And in that paragraph you quote from
15 a representative of Gateway that advised that
16 Gateway "has a long-standing positive reputation
17 in the industry of operating in compliance with
18 applicable laws and regulations, and of
19 following the AML requirements for service
20 providers."

21 And Gateway added that it has "a track
22 record of taking appropriate disciplinary
23 measures, including termination, when an
24 employee has gone offside these obligations."
25 Do you recall that aspect of your report?

1 A Yes. I met with the Gateway senior executive
2 and I was impressed by them, and I am well aware
3 of their background in the casino industry in
4 the United States and Canada.

5 Q And so specifically with respect to your
6 interactions with Gateway representatives in the
7 course of your review, you were satisfied that
8 those statements accurately described Gateway's
9 approach to compliance with laws and regulations
10 in British Columbia?

11 A I am one person. That was the impression I got
12 from my meeting with the senior team, the Chief
13 Executive Officer Mr. Santo, I believe it was,
14 and his team. And also from what we -- in terms
15 of the level of cooperation we got in our work,
16 correct.

17 Q Okay. And so I understand from that, then, that
18 Gateway was cooperative with you in your review
19 and you were provided with, as you referred to,
20 full access?

21 A Yes, that's right. And we had one particular
22 incident that we wanted to pursue, a bit of a
23 probe on our part, and they gave us full access
24 at the Starlight Casino so that we could pursue
25 that and really test our theories.

1 Q In answer to one of Mr. Smart's questions, you
2 talked about service providers being required to
3 step up their game in the context of a
4 standards-based regime, and I believe you were
5 speaking particularly about source of funds
6 requirements. Do you recall that?

7 A Yes.

8 Q Did you understand service providers to be
9 willing to meet that challenge of stepping up
10 their game if the decision were taken to impose
11 a standards-based framework?

12 A They were very willing.

13 Q Mr. Skwarok also made reference to one of your
14 comments, Dr. German, in your report that you
15 were not naïve to the reality that cooperation
16 of service providers was in their best interests
17 effectively in the course of your review;
18 correct?

19 A Of course.

20 Q And would you agree that that comment is also
21 true not only for your review but that
22 cooperation between service providers, BCLC and
23 GPEB as the regulator, is in the best interests
24 of the continued profitability of service
25 providers generally?

1 A Yes, I mean they're a profit-making enterprise,
2 and cooperation with the authorities and I
3 suppose with my review and I suppose with this
4 commission would all be good things to do.

5 Q In other words, if service providers don't
6 comply with laws and regulations and if they
7 don't cooperate with BCLC and the regulator, it
8 certainly could pose a risk to their ability to
9 continue operating in the jurisdiction; correct?

10 A For certain. They are contractors. I don't
11 imagine BCLC would keep them around if they
12 weren't complying.

13 Q And you expressed the view in your report that
14 legislation and regulation should appropriately
15 balance the service provider's legitimate
16 commercial interests in operating a profitable
17 business in British Columbia with the province's
18 public interest goals; correct?

19 A Can you point me to a paragraph on that, please.

20 Q Sure. Paragraph 56 and 57, which are at
21 page 25. So first you refer to at paragraph 56
22 that legislation would have to be clear in order
23 for those to operationalize it effectively to be
24 in compliance with the scheme. But then at
25 paragraph 57 I think you're also recognizing

1 that service providers have a goal of maximizing
2 profits and return on investment and government
3 has a goal as well to ensure there's a public
4 benefit from gaming in the system; correct?

5 A Correct.

6 Q And so the -- I think -- and correct me if I'm
7 wrong, but I think what you're doing is
8 expressing the view that legislation and
9 regulation should appropriately strike that
10 balance between the service providers and the
11 provincial goals; correct?

12 A The only reason I just hesitate on that a bit is
13 that I do mention in the report that we -- I
14 don't believe we can balance, let's say, public
15 safety and say, well, we'll allow a certain
16 amount of public safety to -- you know, to let
17 our guard down in terms of public safety in the
18 interests of maximizing profits.

19 But what I do say is that -- what I think
20 I'm trying to say there is that regulations have
21 to be reasonable, they have to be well tailored
22 to the situation. And quite frankly it all goes
23 to the issue of standards-based regime. If you
24 have a standards-based regime you're saying here
25 are the standards we expect of you; now, you

1 figure out how to comply. And I think that
2 achieves that. So we were probably speaking the
3 same thing.

4 Q And I'd like to return for a moment. I asked
5 you about the, I guess, incentive to service
6 providers to cooperate in British Columbia, have
7 a culture of compliance as you referred to in
8 your report, among the regulator and BCLC in the
9 province. But you also note in your report that
10 that -- the risk is not limited to British
11 Columbia, that service providers, including
12 Gateway, could also be called to answer for
13 deficiencies in BC and other jurisdictions in
14 which they operate. Correct?

15 A That's a very good point in that many of
16 these -- many of the -- well, the service
17 providers are registered in various different
18 locales, and they have to go through a rigorous
19 registration process, and part of that is that
20 if they breach money laundering law, for
21 example, in one jurisdiction, they may well be
22 called to account for it in another. So
23 certainly in the state of Nevada, if they found
24 out that Gateway was not toeing the line, so the
25 speak, the regulator there would probably have

1 some questions about the voracity of their
2 registration, whether they should keep them. So
3 it is certainly an incentive to comply.

4 Q And earlier today you made some comments about
5 gaming service providers advocacy of credit,
6 which is not something that is offered
7 specifically in British Columbia at this time,
8 and you said something to the effect that gaming
9 service provider would be responsible for
10 setting up credit in their back office. And I
11 just wanted to ask if you could expand on your
12 understanding of why this is a significant
13 difference from the PGF or PGA account setup
14 process as that process existed in 2018 when you
15 reviewed it.

16 A Right. So the -- when I refer to back office,
17 just to be very clear, I'm talking about the
18 administrative side of the service provider.
19 And I actually as part of my fieldwork did visit
20 Las Vegas and I was in the back office of one of
21 the casinos there, and they showed me the credit
22 granting process that they went through. And as
23 I mentioned earlier, the beauty of issuing
24 credit is that it falls to the service provider
25 to ensure that they are dealing with a reputable

1 customer, that they know the source of funds
2 because quite frankly, they don't want to be
3 left with a bad debt.

4 And in Ontario I also -- I believe it was
5 Niagara casino. One of the casinos -- I can't
6 recall which one it was -- in Ontario, and they
7 also under that standards-based regime were able
8 to offer credit. So it was something that does
9 exist in this country, but to a limited degree.

10 So I do -- all three service providers were
11 big on the issue of issuing credit. Now, to
12 juxtapose that with a PGA, I think they're quite
13 different tools. I don't think you have the
14 degree of screening with a PGA that you do --
15 there's a lot of forms and so forth to fill out,
16 but with the credit really the responsibility
17 falls to the service provider. If you haven't
18 done a good job of ensuring that that person is
19 a credit worthy -- is credit worthy, you run a
20 risk.

21 And I understand that that is the one
22 impediment here in the province is what happens
23 with bad debts, but that's a separate issue
24 entirely.

25 Q And finally, Dr. German, although the PGA or PGF

1 account process is perhaps somewhat imperfect,
2 it's not the case in your experience that
3 service providers were refusing to offer them as
4 an available option?

5 A Correct. I did not hear that.

6 MS. BEVAN: Thank you, Dr. German. Those are my
7 questions. Thank you, Mr. Commissioner.

8 THE COMMISSIONER: Thank you, Ms. Bevan. I think
9 we'll go Mr. Mistry now on behalf of the BC
10 Government and Service Employees Union, who has
11 been allocated 15 minutes. I think after that
12 we will break until tomorrow.

13 But, Mr. Mistry, if you're ready to proceed,
14 we'll go now.

15 Dr. German, you're okay to go for another 15
16 minutes?

17 THE WITNESS: Yes, judge. I'm fine. Thank you.

18 THE COMMISSIONER: Go ahead.

19 MR. MISTRY: As it turns out, it won't be 15 minutes.

20 Mr. Commissioner, upon hearing the evidence, the
21 BCGEU does not have any questions, although
22 similar to Mr. Usher, we reserve the right to
23 seek leave to ask further questions if something
24 arises in subsequent questioning.

25 THE COMMISSIONER: All right. Thank you. In view of

1 that, then, we will adjourn now until tomorrow
2 morning at 9:30. I think we have ample time
3 left to deal with the balance of the
4 cross-examination of Dr. German. Mr. Martland.

5 MR. MARTLAND: Well, I hope that's the case,
6 Mr. Commissioner. And I think we're in pretty
7 good shape timing wise, so the sequence would be
8 when we return counsel for the Law Society, then
9 Ms. Henein, then down the list of counsel at
10 that point.

11 THE COMMISSIONER: All right.

12 MR. MARTLAND: Just one further point, which is
13 simply to remark -- and I think our general
14 practice has been that where a witness is under
15 cross-examination there's been a direction not
16 to discuss the evidence, the conventional sort
17 of direction to a witness, and so I'd suggest
18 that might be appropriate overnight.

19 THE COMMISSIONER: All right. I'll make that
20 direction. Thank you.

21 MR. R.R. HIRA: Dr. German realizes that he's a
22 pariah.

23 THE COMMISSIONER: Only in your office, Mr. Hira.
24 All right. Thank you. We'll adjourn until
25 tomorrow at 9:30.

1 THE REGISTRAR: The hearing is now adjourned until

2 April 13th, 2021, at 9:30 a.m. Thank you.

3 **(WITNESS STOOD DOWN)**

4 **(PROCEEDINGS ADJOURNED AT 1:29 P.M. TO APRIL 13,**

5 **2021)**

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