

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

**COMMISSIONER AUSTIN F. CULLEN**

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**April 13, 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. I think we left off at the point where Ms. George on behalf of the Law Society of British Columbia will now have her opportunity to cross-examine Dr. German, and she has been allocated 20 minutes.

**PETER GERMAN, a witness  
for the commission,  
recalled.**

**EXAMINATION BY MS. GEORGE:**

Q Good morning, Dr. German. Can you hear me?

A I can, thank you.

Q Thank you. So my name is Catherine George and I'm counsel for the Law Society of British Columbia. Hopefully I won't take my full 20 minutes today, but I do need to do some hopping around in Dirty Money 2, so please bear with me for that. The first thing I would like to ask about, Dr. German, you met with staff and executives from the Law Society of British Columbia as part of your work in gathering

1 information for Dirty Money 2; is that correct?

2 A That is correct.

3 Q How would you describe the degree of cooperation  
4 that the Law Society of British Columbia showed  
5 in that process?

6 A Excellent.

7 MS. GEORGE: Madam Registrar, could I ask you to  
8 bring up exhibit 833, Dirty Money 2 at page 122.  
9 Thank you. That's perfect.

10 Q Dr. German, you see there in the third bullet it  
11 says:

12 "The Law Society of British Columbia is  
13 recognized as a best practice among  
14 Canadian Law Societies with respect to AML  
15 initiatives. It takes the issue seriously  
16 is willing to work on solutions."

17 A I see that.

18 Q And that was your opinion at the time of  
19 publication of the report in March of 2019?

20 A It was and it still is.

21 MS. GEORGE: Thank you. Madam Registrar, can you  
22 please skip ahead to the bottom of page 127 of  
23 this exhibit. Maybe just a little bit further  
24 back up. Thank you.

25 Q Dr. German, you'll see there in the second to

1                   last paragraph there's a reference to the  
2                   Federation of Law Society of Canada approving  
3                   some changes to its model rules regarding AML  
4                   measures, and it says if adopted these rules  
5                   will require lawyers and in fact notaries to  
6                   take certain measures with regards to  
7                   identification and verification of beneficial  
8                   owners of legal entities and that they inquire  
9                   into the source of funds for transactions, and  
10                  that they can only use trust accounts for  
11                  purposes directly connected to the provision of  
12                  legal services.

13                 A     I see that.

14                 Q     And -- thank you. And so you're aware that  
15                   after the report was published that the Law  
16                   Society of British Columbia brought the rule  
17                   into effect requiring that funds into or out of  
18                   a trust account must be directly related to  
19                   legal services provided by the lawyer or the law  
20                   firm and that was in July 2019?

21                 A     I'm aware of that.

22                 Q     And you're aware that the Law Society also  
23                   brought into effect a series of rule amendments  
24                   related to client identification and  
25                   verification, including the two mentioned here

1                   in January of 2020?

2           A     Yes.

3           MS. GEORGE: Thank you. Madam Registrar, could I ask  
4                   you now to turn to page 125 of this exhibit.

5                   Thank you.

6           Q     Now, Dr. German, you reference here at a number  
7                   of other points in the report a 2004 study by  
8                   Dr. Stephen Schneider in which he reviewed  
9                   149 RCMP proceeds of crime cases?

10          A     I see that, yes.

11          Q     And there are a few specific examples of the  
12                 cases from that study which are cited at the  
13                 bottom of this page and going on to the next.  
14                 Do you see the bullet points beginning at the  
15                 bottom of this page?

16          A     Yes.

17          Q     Now, the first example listed here you can see  
18                 involves a drug trafficker providing \$265,500 in  
19                 cash to a lawyer; correct?

20          A     Yes.

21          MS. GEORGE: And then the second bullet -- Madam  
22                 Registrar, if you can maybe scroll down to the  
23                 top of the next page.

24          Q     Also involves what is described as the receipt  
25                 of cash by a lawyer, \$25,000 in a paper bag?

1 A Yes.

2 Q And then the third bullet point here is also  
3 receipt of cash, \$84,000 again in a brown paper  
4 bag to the lawyer?

5 A Yes.

6 Q And then the fifth of these bullets also  
7 involves a drug trafficker saying he provided  
8 his lawyer with a suitcase containing \$140,000  
9 in cash?

10 A Yes.

11 Q Sorry, Dr. German, I didn't hear you. Did you  
12 say that you could see that?

13 A I see it, yes.

14 Q Thank you. And now you're aware that in 2004  
15 after all of these places -- cases took place  
16 all of the Law Societies in Canada implemented  
17 the cash transaction rule that bars lawyers from  
18 receiving more than \$7,500 in cash from respect  
19 of any one client matter?

20 A I'm aware of the no cash rule [indiscernible]  
21 here in British Columbia. And in terms of all  
22 the other jurisdictions, I would be reluctant to  
23 comment on that.

24 Q But you're aware that Law Society of British  
25 Columbia does have that rule in place?

1 A I'm sorry?

2 Q You're aware that the Law Society of British  
3 Columbia has that rule?

4 A I am, yes.

5 MS. GEORGE: Thank you. Madam Registrar, could I ask  
6 you now do go to page 123 of this exhibit.

7 Thank you.

8 Q And, Dr. German, if I could refer you to the  
9 third paragraph under the heading "Introduction"  
10 here which talks about Quebec notaires saying  
11 that they joined with the law societies in the  
12 federation case and are exempted from financial  
13 reporting while those of the BC notaries did not  
14 join?

15 A Yeah.

16 Q Dr. German, are you aware that notaries in  
17 Quebec are lawyers and as such are bound by  
18 solicitor-client privilege in their interactions  
19 with clients?

20 MR. R.R. HIRA: We just have a little issue here with  
21 the sound.

22 THE WITNESS: I'm sorry. Are you able to hear me  
23 now?

24 MS. GEORGE: Yes. The sound is a little better than  
25 what it was before.



1           THE WITNESS:  Sorry, the cord fell out of the mic  
2                            here.  I'm sorry.  I just lost your last  
3                            question here.

4           MS. GEORGE:

5           Q    No problem.  I was saying are you aware that the  
6                            notaires and notaries in Quebec are lawyers and  
7                            are members of the -- their Chambre des notaires  
8                            du Québec is a member of the Law Societies of  
9                            Canada?

10          A    Yes.

11          Q    And so just as a clarification, contrary to the  
12                            impression that some might take from this  
13                            paragraph that it wasn't matter of the Quebec  
14                            notaries choosing to join in the challenge while  
15                            the BC notaries didn't.  The Quebec notaires  
16                            were naturally a part of the federation  
17                            challenge to the application of the *PCMLTFA* to  
18                            lawyers?

19          A    I don't know that specifically.  It was my  
20                            understanding that they joined in it.  If you're  
21                            saying they were required to join by virtue of  
22                            their status, I accept that.  I can't answer  
23                            that.

24          Q    Thank you.  Madam Registrar, could you please  
25                            scroll down to the next page, 124, under the

1 heading "Lawyers." Thank you.

2 Now, Dr. German in the first paragraph  
3 there it refers to "the solicitor-client  
4 privilege which lawyers enjoy and jealously  
5 guard." Do you see that?

6 A I do.

7 Q You would agree with me, Dr. German, that  
8 solicitor-client privilege is a right that the  
9 public benefits from?

10 A Yes.

11 Q And it's a principle of fundamental justice that  
12 lawyers guard not for their own purposes or for  
13 some enjoyment but because it's a professional  
14 obligation that they have an ethical  
15 responsibility to defend?

16 A Yes, we're in agreement.

17 MS. GEORGE: Thank you. Madam Registrar, you can  
18 take this exhibit down now. Thank you.

19 Q Now, yesterday, Dr. German, you referred to  
20 trust accounts as being opaque, but you would  
21 agree with me that aren't opaque to the law  
22 societies in Canada?

23 A Yeah. The issue that I was discussing yesterday  
24 and which is discussed in the report is the fact  
25 that there is no third party scrutiny with the

1                   exception -- depends how you refer to the Law  
2                   Society itself, but there is no public scrutiny  
3                   in terms of a public agency as was contemplated  
4                   in the proceeds of crime money laundering  
5                   legislation in 2000. So we have the Law  
6                   Society, and my point yesterday, and in the  
7                   report, was that it is filling the role or doing  
8                   its very best to fill the role that parliament  
9                   intended a third party agency, i.e. FINTRAC to  
10                  perform.

11                 Q    Thank you. Now, you also commented yesterday on  
12                   the cash transaction rule, noting that while  
13                   lawyers are restricted in the amount of cash  
14                   they can receive generally they can still  
15                   receive cash for fees, disbursements and bail  
16                   under the Law Society rule?

17                 A    That's my understanding, yes.

18                 Q    Now, are you aware, Dr. German, that the  
19                   original source for the exemption for fees  
20                   disbursements and bail is the *Proceeds of Crime*  
21                   *(Money Laundering) and Terrorist Financing Act*?

22                 A    You mean the -- what do mean by "source"? I'm  
23                   sorry.

24                 Q    The exemption for the application of the cash  
25                   reporting rule and generally for receipt of

1 funds for fees and disbursements and bail is in  
2 the regulations of the *Proceeds of Crime (Money*  
3 *Laundering) and Terrorist Financing Act*. For  
4 example, notaries are not under obligation to  
5 report when they receive cash for those  
6 purposes?

7 A It may well be.

8 MS. GEORGE: Thank you. Madam Registrar, can you  
9 please bring up the screenshots from the Peter  
10 German & Associates website that we provided to  
11 the commission. Thank you. Madam Registrar, if  
12 you can maybe just click through the first three  
13 pages or so so that Dr. German has a chance to  
14 see what this looks like. Thank you.

15 Q Now, Dr. German, do you recognize this as being  
16 sort of a PDF copy of the website of your  
17 consulting company Peter German & Associates?

18 A I do.

19 Q Thank you. If you jump through to page 11 of  
20 this PDF, Madam Registrar.

21 Dr. German, this begins a listing of the  
22 associates at Peter German & Associates  
23 beginning with Stef Cassella; is that correct?

24 A Yes.

25 Q And Mr. Cassella, are you aware, is scheduled,

1                   to testify in an upcoming portion of this  
2                   commission?

3           A        I'm aware of that.

4           MS. GEORGE: Next page, please, Madam Registrar.

5           Q        And we see here also Raheel Humayun. You're  
6                   aware he testified before the commission?

7           A        I am.

8           Q        And then Doug LePard, who just testified before  
9                   the commission recently?

10          A        Yes. And he was part of my team as I indicated  
11                   yesterday on Dirty Money 2. Yes, go ahead.

12          MS. GEORGE: And, Madam Registrar, just to the next  
13                   page.

14          Q        Adam Ross, you're aware, Dr. German, that he's  
15                   the author of an overview report that was filed  
16                   with the commission?

17          A        I am aware that he was doing work for the  
18                   commission. I'm not aware of specifics of what  
19                   he filed or provided.

20          MS. GEORGE: Thank you. Those are my questions,  
21                   Dr. German.

22          THE WITNESS: Thank you.

23          THE COMMISSIONER: Thank you, Ms. George.

24                   I'll now turn to --

25          MR. MARTLAND: Mr. Commissioner, if I might interject

1 to check whether Ms. George wants the website  
2 document marked as an exhibit perhaps.

3 MS. GEORGE: Oh, yes. Thank you, Mr. Martland. If I  
4 could ask that that be marked the next exhibit.

5 THE COMMISSIONER: Very well, that will be our next  
6 exhibit.

7 THE REGISTRAR: Exhibit 834, Mr. Commissioner.

8 THE COMMISSIONER: Thank you.

9 **EXHIBIT 834: A PDF of the website of Peter**  
10 **German & Associates**

11 THE COMMISSIONER: I'll now turn to Ms. Henein on  
12 behalf of Rob Kroeker, who has been allocated  
13 30 minutes.

14 MS. HENEIN: Thank you, Mr. Commissioner.

15 **EXAMINATION BY MS. HENEIN:**

16 Q Mr. German, during the course of your reports  
17 you had the opportunity to interview and engage  
18 with a number of people from BCLC?

19 A That's correct.

20 Q And one of these people was Mr. Kroeker?

21 A That's correct.

22 Q And I understand that in your acknowledgements  
23 of your report Dirty Money, one of the things  
24 that you specifically mention is a thank you to  
25 the various heads of compliance and in

1 particular you reference Rob Kroeker?

2 A I do.

3 Q And Mr. Kroeker was cooperative with you  
4 throughout the process of your investigation and  
5 interviews?

6 A He was.

7 Q And I understand that he provided voluminous  
8 information on changes, for example, that BCLC  
9 had implemented in respect of their AML program?

10 A He provided access to a large quantity of  
11 material period, yes.

12 Q And in that quantity of material it also  
13 included changes specific to BCLC and their AML  
14 program?

15 A Yes.

16 Q Okay. And he made his staff available to you?

17 A He did.

18 Q Okay. And do you recall him also providing you  
19 with a mortgage link chart that showed linkages  
20 between casino patrons and various individuals,  
21 lawyers, corporate entities? Do you have a  
22 recollection of that?

23 A I don't have an active recollection of it.

24 Q All right. If there was an email to that  
25 effect, would that -- would you have any reason

1                   to disagree that in fact Mr. Kroeker did do  
2                   that?

3           A     If there's an email to me, I would have no  
4                   reason to disagree.

5           Q     Okay. One of the things you canvassed in your  
6                   report was a review of Mr. Kroeker's 2011  
7                   report. Do you recall that?

8           A     Yes.

9           Q     And do you recall that in your report -- and I'm  
10                  not going to ask that it be brought up, but  
11                  please tell me if you agree, that in your report  
12                  at page 111, paragraph 453, you said:

13                         "The Kroeker Report is important because  
14                                 it was the first attempt to address the  
15                                 money laundering situation in casinos on  
16                                 an industry-wide basis."

17                  Was that your view?

18          A     It was and it still is.

19          Q     Okay. Now, one of the things that you  
20                  identified as being particularly prescient in  
21                  the 2011 Kroeker Report was Mr. Kroeker's view  
22                  that law enforcement was a key piece on tackling  
23                  the broader ML issue; right?

24          A     I don't have an active recollection of having  
25                  stated that, but I fully accept that I may have



1                   stated that and that would be my opinion, yes.

2           Q        Okay.  And do you recall that in the report of  
3                   2011 Mr. Kroeker made recommendations that GPEB  
4                   create formal contacts and relationships with  
5                   governance and enforcement agencies?

6           A        It would help to see it in the report.

7           Q        Sure.

8           A        But I don't doubt that for a minute and it does  
9                   sound familiar to me, yes.

10          Q        Okay.  Well, why don't we if we see if we can  
11                   pull up page 112 of your report Dirty Money.

12                   Thank you.  And --

13          THE REGISTRAR:  Sorry, did you say 112?

14          MS. HENEIN:  Page 112.

15          THE REGISTRAR:  Okay.  Sorry.

16          MS. HENEIN:

17          Q        And do you see that one of the things was that  
18                   there is a recommendation that there had to be  
19                   an overarching strategy, first of all by moving  
20                   from a cash-based industry to a noncash based  
21                   industry or cash alternatives.  I'm going to  
22                   come back to that.  Right?

23          A        Yes.

24          Q        Okay.  And if I can look at -- ask you to look  
25                   down at phase 3, he recommended direct

1 regulatory action from GPEB as part of the  
2 administrative process?

3 A I see that, yes.

4 Q Okay. And do you see at -- a little bit further  
5 down there at paragraph 465 he recommended a  
6 working group between BCLC and GPEB to develop  
7 solutions?

8 A Yes.

9 Q Okay. And one of the things that he suggested,  
10 and I take it you agreed with, was to have an  
11 interdisciplinary or cross agency task force.  
12 In other words not to have BCLC siloed and GPEB  
13 siloed and the police siloed but that they would  
14 work together?

15 A So I don't know -- it would depend on time and  
16 place to say that I agreed with. Because I  
17 wasn't involved in this 2011 at all.

18 Q I understand.

19 A But I understand I think what you're getting at  
20 is that he made this recommendation and at the  
21 time that the recommendation was made, I think  
22 that was a good recommendation.

23 Q All right. Can I ask you to take the exhibit  
24 down, ma'am, please.

25 Now, I just want to talk to you a little

1                   bit about the evidence that we've heard at this  
2                   commission regarding the idea of a cash cap;  
3                   okay?

4           A       Yes.

5           Q       Now, we've heard a number of questions being put  
6                   by commission counsel as to the benefits of a  
7                   cash cap and whether or not one was implemented.  
8                   And I take it that you agree that at the end of  
9                   your review you concluded that no cash cap be  
10                  imposed?

11          A       That was my conclusion, yes.

12          Q       And I take it that part of your conclusion was  
13                   also based on your analysis and understanding  
14                   that cash caps were not the norm in casinos  
15                   around the world?

16          A       I think there are two issues.  As I believe I  
17                   mentioned yesterday, I saw the focus should be  
18                   on source of funds, source of wealth as opposed  
19                   to an arbitrary cap.  That was point number one.

20                               Point number two is that yes, it appeared  
21                   to be the industry norm, at least as I was told  
22                   and from what I heard, not to put cash caps in  
23                   place.  And to me that made sense because if  
24                   you're looking for source of funds, again, as I  
25                   mentioned yesterday, some people have a lot of

1 money and if it can be sourced properly, why  
2 can't they gamble with it.

3 Q All right. So we're going to come back to your  
4 views on source of funds, but let's focus a  
5 little bit if we can on the cash caps. So your  
6 report was, number one, that it was not  
7 recommended to impose cash caps; right?

8 A Correct.

9 Q That your understanding was this was not the  
10 norm in casinos across the world to deal with  
11 money laundering, the imposition of cash caps;  
12 right?

13 A It was my understanding, yes.

14 Q And that was your understanding as late as 2017,  
15 2018 when you were conducting your report;  
16 right?

17 A Yes, at the time of the report.

18 Q Okay. In 2011 I take it you agree with me that  
19 source of funds inquiries were not the industry  
20 standard.

21 A Okay. That -- well, the industry, I mean, in  
22 2011 we did have a proceeds of crime money  
23 laundering act. It applied to casinos, so  
24 source of funds, compliance officer, due  
25 diligence, all of those were very much a part of

1           the regime in 2011. You know, they had been  
2           since 2000. So whether or not across the  
3           country the industry was adhering to that or  
4           not, that's probably, you know, a question for  
5           FINTRAC, but in terms of British Columbia, I  
6           think it's clear that we could have done better  
7           in terms of source of funds.

8           Q     Let me go back to the question that I asked you.  
9           In 2011 are you aware that FINTRAC did not  
10          mandate a source of funds inquiry?

11          MR. R.R. HIRA: Well, with respect, that wasn't the  
12          question asked, but if that is the question now  
13          asked, please answer it.

14          THE WITNESS: Yeah, I don't -- FINTRAC requires  
15          certain things, and they require the filing of  
16          reports. They don't require -- they require due  
17          diligence on the part of reporting entities;  
18          they require, as I said, a compliance officer  
19          compliance regime. They do not have a specific  
20          requirement in terms of source of funds. I  
21          believe that is left up to the reporting  
22          entities to comply with the legislation. So I  
23          think we're in agreement.

24          MS. HENEIN:

25          Q     And can you tell me whether you are aware that

1                   FATF, the international body, also did not  
2                   impose a source of funds requirement?

3           A       Well, again, FATF can't impose, but in terms of  
4                   its -- on let's say Canada, but they can  
5                   certainly be very persuasive and I do not know  
6                   what the FATF standard was at that time with  
7                   regard to source of funds.

8           Q       All right. In 2015 you're aware that BCLC does  
9                   implement source of funds based on a risk  
10                  assessment?

11          A       If you could point me to something in that  
12                  regard.

13          Q       Well, let me ask it this way: do you know when  
14                  BCLC imposed any sort of source of funds  
15                  inquiry?

16          A       I would like to think that the industry was  
17                  looking at the source of funds, but obviously it  
18                  was an issue, so at what juncture there was a  
19                  directive from BCLC, you know, I couldn't give  
20                  you date and time. I would have to be shown  
21                  some document. But I think that's the crux of  
22                  the issue is that there wasn't sourcing being  
23                  done. Lots of reports were going in Suspicious  
24                  Transaction Reports, but there wasn't this  
25                  sourcing taking place. So did it change at a

1 particular point, did all of a sudden did people  
2 start sourcing? I'm not aware of that.

3 Q Okay. So if I were to put to you that we've  
4 heard evidence at this commission that in 2015  
5 BCLC instituted source of fund inquiries on a  
6 risk analysis, so not across the board but based  
7 on whether or not certain risk criteria were  
8 met. Can you assist me whether you recall  
9 coming across that information in your review or  
10 not?

11 A Are you referring -- well, I guess I'm wondering  
12 if you're referring to the move to cash  
13 conditions.

14 Q No.

15 A No. Okay. There certainly was a lot of, you  
16 know, discussion in 2015 of moving patrons to  
17 cash conditions and determining if the source of  
18 their funds, their cash could not be determined  
19 then they would have to go on cash conditions.  
20 That's my recollection.

21 Q Okay. Can you help me out a little bit. In  
22 terms of your understanding of cash  
23 alternatives, I gather that you in February 2018  
24 had visited Las Vegas. Do you recall that?

25 A Yes.

1           Q     And you recall meeting with a person named  
2                   Dennis Amerine, who arranged for you to meet  
3                   with the commission in Las Vegas, the board,  
4                   Wynn and Westgate and to get a better  
5                   understanding of the Nevada gaming model?

6           A     Yes. So the origin of the trip, the Attorney  
7                   General of British Columbia actually wrote to  
8                   his counterpart in Nevada, and there was -- with  
9                   respect to me attending and making some  
10                  inquiries. At the same time the compliance  
11                  officer, Mr. Amerine from Paragon, offered to  
12                  assist and facilitate those inquiries that you  
13                  referred to. And so that did take place,  
14                  correct.

15          Q     And do you recall writing that you had received  
16                  a -- I'm just quoting you, "a crash course on  
17                  cash alternatives and credit" during that visit?

18          A     Yes. And I referred to that yesterday. I was  
19                  actually given the opportunity to look at the  
20                  credit granting process and in the back office  
21                  of one of the casinos. I wanted to -- because  
22                  the three service providers here in British  
23                  Columbia had spoken to me about the importance  
24                  of credit, and I wanted to understand the form  
25                  of due diligence and so forth that went into the



1 credit granting process and that was that  
2 opportunity. And I would say it was a crash  
3 course. You know, I certainly couldn't fulfill  
4 the functions. I wasn't being trained in it,  
5 but I spent some time with the folks in the back  
6 office.

7 Q All right. When you were getting this crash  
8 course on alternatives, cash alternatives and  
9 credit, was that the very first time that you  
10 had had that opportunity to look at it in other  
11 jurisdictions other than BC?

12 A Well, yeah, it wasn't so much a crash course in  
13 cash alternatives. It was an opportunity to see  
14 the credit granting process, what went into it  
15 and to understand, you know, really how a casino  
16 managed that. So that was the first opportunity  
17 because we don't have that here in British  
18 Columbia, and my understanding is, as I  
19 mentioned yesterday, it was possible at certain  
20 casinos in Ontario, but I had not visited those  
21 casinos. So this was my first opportunity, yes.

22 Q Okay. So I'm just trying to understand the  
23 basis of your conclusions that cash alternatives  
24 and credit was a failed strategy. Am I right  
25 that this event or this visit in February of

1                   2018 occurred one month before your final  
2                   report?

3           A        There's two different things here. The issue  
4                   about a failed strategy with cash alternatives  
5                   is not related to the credit granting process.  
6                   We didn't have credit granting in this province.  
7                   I was looking prospectively in terms of  
8                   recommendations what would I recommend, and I  
9                   did eventually recommend, I believe, that credit  
10                  should be granted. The issue of cash  
11                  alternatives and the failed strategy is the  
12                  issue of after Mr. Kroeker's report in 2011,  
13                  what happened. And I looked at this  
14                  holistically and I said okay, there is a move to  
15                  cash alternatives; GPEB and BCLC engage over a  
16                  period of years, and some cash alternatives are  
17                  implemented, cheques and so forth, electronic  
18                  transfers, but there's a lot of back and forth  
19                  and a certain degree of acrimony if you look at  
20                  the emails going back and forth. And at the end  
21                  of the day, the cash count keeps going up, the  
22                  bags of cash keep coming in, the boxes and so  
23                  forth. So in my mind it was a failed strategy.  
24                  I'm looking for change, what can we do to change  
25                  that and the credit granting process and I still

1 believe that it has some application that would  
2 be worth while in our environment.

3 Q If I can ask you to focus on the issue and your  
4 opinion regarding cash alternatives. I'm just  
5 trying to understand the depth of your knowledge  
6 about that. So let's just go back to February  
7 2018 when you go to Las Vegas -- and I'm using  
8 your words -- that you're provided a crash  
9 course on cash alternatives and credit. And  
10 many of your questions were fielded. So is that  
11 the first time, other than what you see in BC,  
12 that you look at cash alternatives and how  
13 they're being utilized elsewhere?

14 A I don't know if I went to Ontario. I think I  
15 went to Ontario before I went to Nevada, but I  
16 would have to check. If I went to Nevada in  
17 February, in all likelihood I went to Ontario  
18 prior to that. So in Ontario I would have  
19 looked at the situation in Ontario, spoke to  
20 AGCO, spoke to OLG, and, you know, about the  
21 entire environment there, spent a few days with  
22 them. And as I say, the issue in Nevada and  
23 certainly in the back office there was with  
24 regard to the credit granting process.

25 Q You say that you were also given a crash course

1                   on cash alternatives. Is it fair to say that  
2                   you did not have a great deal of experience of  
3                   how cash alternatives were utilized in other  
4                   casinos internationally and what, if any, impact  
5                   they had or why they were being utilized?

6           MR. R.R. HIRA: I note that those are three  
7                   questions, so if you would like to break it down  
8                   into single questions, that would be  
9                   appreciated.

10          MS. HENEIN: Well, let's go back then.

11          THE WITNESS: Because I think --

12          MS. HENEIN:

13          Q        Sure. Sorry, I don't want to interrupt you. Go  
14                   ahead.

15          A        No, I just want to say it might be helpful if  
16                   you could point me to the paragraph that you're  
17                   referring to in my report and I can hopefully  
18                   explain it in context.

19          Q        Well, what I'm referring to right now is the  
20                   email.

21          A        Oh, okay.

22          Q        Yes. And your words that:

23                   "At Westgate Michael Pearse, Brian Hodge  
24                   and Libbi Baranick were very helpful,  
25                   provided a crash course on cash

1 alternatives and credit, and fielded my  
2 many questions."

3 And then you talk about shaking Elvis's hands in  
4 the lobby. Do you recall that email?

5 A Yes. I recall shaking his hand.

6 Q All right. So I'm just trying to understand in  
7 terms of your experience with cash alternatives.

8 A Yes.

9 Q Prior to going to Las Vegas in February of 2018.

10 A Yes.

11 Q Is the sum total of your experience with how  
12 cash alternatives are used in casinos the  
13 Ontario trip, or was there more?

14 A It would be Ontario and Nevada, correct.

15 Q Okay. So Ontario, which you visited prior to  
16 Nevada, and then Nevada. And did you look at  
17 any other jurisdictions like the European Union  
18 or Australia or New Zealand to see how they  
19 utilized cash alternatives?

20 A I did no other field trips if that's what we're  
21 referring to, no.

22 Q Or any other research? If you didn't do field  
23 trips did you any research?

24 A Well, I did a lot of research, a lot of open  
25 source, a lot of reviewing articles and so

1                   forth. There is a wealth of literature on  
2                   casinos and casino management. So cash  
3                   alternatives is something that is in the  
4                   literature. It comes up a lot. I am not a  
5                   casino professional and I'm the first to admit,  
6                   you know, this is all new to me. So I'm seeing  
7                   the BC situation. I look at Ontario and I look  
8                   in Nevada. I'm doing two things. I'm trying to  
9                   figure out what happened in British Columbia and  
10                  I'm trying to find out what can we do  
11                  differently. Simple as that.

12                Q     Well, that's actually one of the questions I was  
13                  going to ask you. If you can help me out a  
14                  little bit because I was reviewing your résumé.  
15                  In terms of being a casino expert, can you tell  
16                  me a little bit about what experience you had  
17                  prior to being hired to write this report in the  
18                  way that casinos function?

19                A     Well, the term "casino expert," I did not prior  
20                  going into this report view myself as a casino  
21                  expert. I had, as we discussed yesterday,  
22                  done -- provided a legal opinion to GPEB and  
23                  BCLC with regard to an aspect of casinos and  
24                  then did this report. I've learned a lot about  
25                  casinos as a result of my work. I know a lot

1 more now than I did before, but this is an  
2 industry that people work in, and, you know,  
3 spent their entire lives in, so in many ways,  
4 you know, what I have touched is a part of this  
5 industry.

6 Q And this was your first, I gather from what  
7 you're saying, in-depth involvement with the  
8 industry, this project?

9 A Correct.

10 Q All right. Do you recall that one of the things  
11 you concluded in your report in dismissing cash  
12 alternatives as a viable component of money  
13 laundering strategies was that organized  
14 criminals are not looking for cash alternatives.  
15 Do you recall saying that in your report?

16 A Yeah, if you could show me the provision in the  
17 report where I discussed it.

18 Q Can we pull up paragraph -- page 12,  
19 paragraph 20?

20 MR. R.R. HIRA: Of which report, number 1 or report  
21 number 2?

22 MS. HENEIN: March 31st, 2018.

23 MR. R.R. HIRA: Thank you.

24 MS. HENEIN:

25 Q Paragraph 20 there. Do you see you say:

1 "Both BCLC and GPEB developed AML  
2 strategies to address the recommendations  
3 of that report. The strategies continued  
4 for five years and, although there were  
5 other components, the greatest emphasis  
6 was on the development of alternatives to  
7 cash in casinos. It was a failed strategy  
8 for one simple reason. Organized  
9 criminals are not looking for cash  
10 alternatives. They want to launder cash  
11 and we now know that they continued to do  
12 so to do precisely that, and with vigour."

13 Do you recall coming to that conclusion?

14 A Yes.

15 Q Okay. Did --

16 A I would just add to that if I may.

17 Q Sure.

18 A There's a distinction there between cash  
19 alternatives being failed and a failed strategy,  
20 and that's really the issue that I have. There  
21 are cash alternatives that are probably quite  
22 viable and would help, and we've talked about  
23 credit granting. I'm talking here as I did  
24 earlier about a strategy. It didn't work. The  
25 cash kept coming in. That was the point I'm



1 making in paragraph 20.

2 Q In terms of -- thank you. I don't need that up  
3 anymore.

4 In terms of your assessment as to the  
5 success or failure of the cash alternatives  
6 strategy, did you consider whether there was an  
7 impact on ensuring patrons didn't turn to loan  
8 sharks when they needed cash by having a cash  
9 alternative strategy? Was that something you  
10 factored?

11 A Yeah, I think we really have to take a holistic  
12 approach to this and so my report and the  
13 recommendations look at a number of things, and  
14 included in that, as you would know, is a  
15 designated policing unit and an independent  
16 regulator. So stepped up enforcement. And I  
17 would like to think that with stepped up  
18 enforcement and with a strong regulator you're  
19 not going to have the loan sharks hanging around  
20 the tables and hanging around the casino and so  
21 forth. So it's not just about fixing one thing.  
22 You have to fix in some ways the system.

23 Q No, I appreciate that. I'm just trying to  
24 understand what your -- what went into your  
25 assessment of cash alternatives not being a

1                   successful strategy as part of the holistic  
2                   approach to money laundering. So I take it you  
3                   would agree with me that cash alternatives are a  
4                   way to limit loan sharks' involvement in  
5                   casinos. Is that fair?

6           A        Yes.

7           Q        Okay. And in terms of being able to trace  
8                   funds, large amounts of funds, if players were  
9                   playing with large sums of cash and utilizing  
10                  cash alternatives or PGF accounts, do you agree  
11                  that that would also assist in tracing funds?

12          A        We'd have to take that question apart in various  
13                  segments because PGA accounts are an issue in  
14                  and of themselves. I think you're talking about  
15                  gambling with cash alternatives.

16          Q        Yeah.

17          A        I'm not too sure what you mean by that. I mean,  
18                  at the end of the day you're gambling with  
19                  chips, but the ability to obtain cash  
20                  alternatives would presumably reduce the  
21                  involvement of loan sharks. Loan sharks was not  
22                  the big issue that we were dealing with. What  
23                  we were dealing with in probably 2011 on to 2015  
24                  was organized crime and large amounts of cash  
25                  coming in. The loan sharks are still there, but

1                   they're not what they were previously because in  
2                   many ways the casinos and BCLC had done a good  
3                   job of getting them outside of the premises.

4           Q       We've heard evidence at this inquiry from a  
5                   Dr. Levy, a professor of criminology at Cardiff,  
6                   and he concluded that incentivizing cash  
7                   alternatives is a reasonable AML strategy for  
8                   businesses that are cash intensive.  Would you  
9                   agree or disagree with that statement?

10          A       Well, I know Professor Levy.  I'm not too sure  
11                   what he defines as incentivizing cash  
12                   alternatives, but if by that we mean encouraging  
13                   people to use cash alternatives, I would agree.

14          Q       Do you know what -- let me put it this way:  are  
15                   you aware that in 2017 GPEB had credited cash  
16                   alternatives for the decline in the amount of  
17                   suspicious cash entering BC casinos?  Were you  
18                   familiar with that opinion from GPEB?

19          A       I'm not familiar with the [indiscernible].  I  
20                   mean, I may have seen it at some point.  Today  
21                   I'm not familiar with that particular comment.  
22                   I don't have any doubt that cash alternatives  
23                   has contributed.  There's no question about  
24                   that.

25          Q       Were you ever given an opportunity to review a

1 report from a group called the HLT Advisory? It  
2 was issued February 22nd, 2018, and tracked the  
3 number of STRs and their connection to PGFs.  
4 Were you ever given an opportunity to review  
5 that report?

6 A If I -- I'm dredging my mind here, but I believe  
7 the HLT report came out while I was doing my  
8 review, and it talked about the potential  
9 financial impact of my report or of putting a  
10 cash cap on. I have a vague recollection of the  
11 HLT report. I'd have to see it to refresh my  
12 memory. For me it was about the potential loss  
13 to BCLC.

14 Q All right. Do you recall it covering PGFs and  
15 their use or not?

16 A I don't today recall.

17 Q All right. Do you recall speaking to a Ross  
18 Alderson and giving him an opportunity to review  
19 your report and make comments?

20 A Well, I actually spoke to Ross Alderson a couple  
21 of times, and that -- and I don't believe I  
22 spoke to him at the time that you're referring  
23 to. I think he was provided with a draft of my  
24 report.

25 Q All right. Do you recall that Mr. Alderson's

1 complaints were focused on GPEB?

2 A I spoke to Mr. Alderson early on in this process  
3 at considerable length and Mr. Alderson was  
4 quite forthcoming on a number of issues. He  
5 spoke to me about GPEB. He spoke to me about  
6 BCLC. He spoke to me about his frustrations at  
7 the casinos. He spoke on a wide number of  
8 issues and in many ways provided a lot of -- a  
9 bit of a roadmap for us early on in our review.

10 MS. HENEIN: Okay. Can I ask for document PG0211 to  
11 be pulled up, please.

12 THE REGISTRAR: For Mr. Hira's information, that is  
13 tab 56.

14 MR. R.R. HIRA: Thank you.

15 MS. HENEIN:

16 Q Can we just go to page 6 of that document,  
17 please. Thank you. If we could just stop  
18 there.

19 If I can just ask you, Mr. German, to look  
20 above "chapter 25." You see there where it says  
21 "I stated in my interview"? Do you see those  
22 words?

23 A Yes.

24 Q Okay. So it says:

25 "I stated in my interview I believe the

1 entry needed a stronger regulator. Why  
2 did it take a recommendation in December  
3 2017 from Dr. German for GPEB  
4 investigators to get more involved in  
5 casino operations when this appears to be  
6 an operational decision that could have  
7 been made by GPEB senior management."

8 Do you recall Mr. Alderson making that comment  
9 to you?

10 A Yes, I recall reading that. And that is quite  
11 possible that he stated that in as many words.  
12 I do know he had issues with GPEB.

13 MS. HENEIN: All right. Can I ask, Mr. Commissioner,  
14 that that document be filed as an exhibit.

15 THE COMMISSIONER: Yes, very well. That will be the  
16 next exhibit.

17 THE REGISTRAR: Exhibit 835, Mr. Commissioner.

18 **EXHIBIT 835: Response to Report - Dirty Money**  
19 **in Our Casinos by P. German - March 31, 2018,**  
20 **submitted by Ross Alderson**

21 MS. HENEIN:

22 Q Do you recall, Mr. German, concluding in your  
23 report consistent with Mr. Alderson's view that  
24 there had been enormous change since 2015 in the  
25 casino industry and their attempts to control

1 money laundering?

2 A Mr. Alderson, as I recall, saw change from his  
3 perspective I think when Mr. Desmarais came in  
4 as the compliance officer, and I'm thinking that  
5 was 2014, and I believe he saw that continuing  
6 under Mr. Kroeker. And he also was quite candid  
7 about his own involvement and what he had done  
8 to attempt to effect change.

9 Q All right. And do you recall in fact in your  
10 report you concluded that in your view the  
11 problems with money laundering in the management  
12 of money laundering had reached an apex in 2015  
13 and then started to improve?

14 A In 20 -- the highest number of \$20 bills, as I  
15 understand it, suspicious transactions was in  
16 the summer of 2015. The numbers declined after  
17 that.

18 Q All right.

19 A So you can equate that with an improvement,  
20 correct.

21 Q Right. And just out of interests of time, I'm  
22 just going to read to you what is in your  
23 executive summary, paragraph 8 at page 10. Do  
24 you recall saying the following:

25 "A combination of factors, including

1                    police involvement, public scrutiny and  
2                    the actions of the gaming industry, has  
3                    dramatically reduced the quantity of  
4                    suspicious money entering casinos from its  
5                    high point in 2015."

6            A     Yes.    That -- I agree with that.

7            Q     Okay.    Thank you.    And do you recall --

8            MR. MARTLAND:    I apologize for doing this.    I am  
9                    keeping the stopwatch a little, and Ms. Henein  
10                   is at her time.

11           MS. HENEIN:    And I'm almost finished, Mr. Commissioner.  
12                   I just have a couple more questions.

13           THE COMMISSIONER:    That's fine, Ms. Henein.    Do you  
14                    want the last exhibit taken down?

15           MS. HENEIN:    Yes.    Thank you very much.

16           THE COMMISSIONER:    All right.    Thank you.

17           MS. HENEIN:

18           Q     Do you recall that you were given information  
19                    that STR dollar values and numbers had started  
20                    trending down in 2015?

21           A     Yes.

22           Q     Okay.    And do you also recall being given  
23                    information that there had been a decline in LCT  
24                    values as well?

25           A     Yes.    And I also state that, I believe, in my



1 report.

2 Q All right.

3 A I could point you to the paragraph number that  
4 we saw this decline in 2015. Correct.

5 Q Okay. And finally just so I can understand the  
6 methodology that you used in your report, just  
7 to help us out a little bit, you've candidly  
8 told us that prior to this report you were not a  
9 gaming or casino expert; right?

10 A Correct.

11 Q And at the time you did your report, separate  
12 and apart from the report, had you had any  
13 international experience, for example, looking  
14 at protocols in other jurisdictions?

15 A With respect to casinos?

16 Q Yes.

17 A No.

18 Q Okay. And so were you aware --

19 A I'm sorry. I should just add that I was in  
20 Nevada as a result of -- as part of the legal  
21 opinion that I provided when I was preparing  
22 that in 2016. I did go there as well. So that  
23 would have been my prior experience.

24 Q Okay. And in terms of your recommendation  
25 regarding source of funds as being, you know,

1           the central key fix in your opinion, were you  
2           aware that source of funds is not a system  
3           that's used in other jurisdictions? Did you  
4           look at that?

5           A     I guess you'd have to define what you mean by  
6           "is not a system." Source of funds is  
7           fundamental to due diligence and to compliance  
8           throughout the anti-money laundering industry.  
9           It's essential to effective due diligence. So I  
10          guess maybe we're talking two different things.

11          Q     All right. Can you just help me on just the  
12          scope of your inquiries. When you were looking  
13          at source of funds when you should implement  
14          them, whether they should be implemented across  
15          the board or on a risk-based assessment, whether  
16          it required something more than a  
17          know-your-client inquiry, did you do a  
18          comparative analysis at all with other  
19          jurisdictions?

20          A     Not with other jurisdictions, but I did have the  
21          benefit of the MNP report, which had been  
22          completed, I believe, the year before I started,  
23          and they also made considerable reference after  
24          extensive work on the need for source of funds  
25          reporting in our environment in British

1 Columbia, and I reference those particular  
2 recommendations that they made in my report, and  
3 my source of funds recommendation is similar to  
4 that. And I should add that BCLC was also  
5 anxious to put something in place, as I  
6 understand it, and so I think we were all in  
7 agreement that source of funds was an important  
8 thing and it was a matter of getting it in there  
9 soon to stem what I considered any further  
10 bleeding, let's deal with this right away, and  
11 the Attorney General had wanted those interim --  
12 any interim recommendations that I could make.  
13 And that to me was critical.

14 Q So your answer to my question about whether you  
15 looked at these other jurisdictions is no, but  
16 you did look at the MNP report; is that right?

17 A Correct.

18 Q And finally your report I gather was put  
19 together by you conducting interviews of various  
20 actors in the industry.

21 A Well, it's the people that you see listed as  
22 well as some others, but essentially it was put  
23 together through interviews, through the review  
24 of copious documentation, academic articles,  
25 open-sourced research. Essentially whatever I

1                   could get my hands on that I felt was relevant  
2                   to my review.

3           Q       Right.  But it didn't involve any sort of  
4                   forensic analysis of data by you or by an expert  
5                   retained through you?

6           A       Well, yes, we did do some forensic analysis and  
7                   Jerome Malysh, who was my associate that worked  
8                   with me, is a forensic accountant, and there  
9                   were a couple of instances, one I think I  
10                  referred to yesterday at the Starlight Casino,  
11                  where we did some forensic work.  He also  
12                  worked -- he was also quite familiar with  
13                  processes at GPEB and BCLC.  I actually worked  
14                  with -- interviewed your client and also looked  
15                  at a lot of the material that was provided by  
16                  BCLC.  So whether we call that forensic  
17                  examination or examination by a forensic  
18                  accountant, that was a component of what we were  
19                  doing.

20           MS. HENEIN:  All right.  Thank you.  Those are my  
21                  questions.

22           THE WITNESS:  Thank you, ma'am.

23           THE COMMISSIONER:  Thank you, Ms. Henein.

24                               I'll turn now to Mr. McFee on behalf of  
25                               James Lightbody, who has been allocated 30

1                   minutes.

2                   **EXAMINATION BY MR. McFEE:**

3                   Q     Dr. German, are you able to hear me all right?

4                   A     I am, sir.

5                   Q     Thank you. After your appointment on  
6                   September 28th, 2017, to undertake this  
7                   independent review, as I understand it, one of  
8                   the initial steps you took was to make contact  
9                   with and meet with BCLC senior leadership team.  
10                  Is that accurate?

11                  A     That's correct.

12                  Q     And that included making contact with my client,  
13                  Jim Lightbody, who was the president and CEO of  
14                  BCLC?

15                  A     Yes. I believe I introduced myself to him by  
16                  way of an email and he was very accommodating  
17                  and we arranged a meeting.

18                  Q     And in fact did that initial meeting take place  
19                  in -- near the end of October 2017 between  
20                  Mr. Lightbody, Mr. Desmarais, Mr. Kroeker and  
21                  you?

22                  A     Yes. And upon reflection. He may have reached  
23                  out to me. I seem to recall it was an email  
24                  conversation between the two of us which led to  
25                  the meeting and we did meet, yes, correct.

1           Q     And did you form a favourable impression  
2                    respecting the abilities and background and  
3                    training of the BCLC senior leadership team?

4           A     Well, I'm not disagreeing with you. Just to  
5                    provide some context to my answer, I had never  
6                    met your client before, Mr. Lightbody, so it was  
7                    a pleasure to meet him. He was a gentleman, he  
8                    was professional, we had a good conversation. I  
9                    knew both Mr. Desmarais and Mr. Kroeker before,  
10                  and I worked with -- worked with or been a  
11                  colleague of is probably more appropriate with  
12                  both Desmarais and Kroeker in the past, so I  
13                  knew them already.

14          Q     And during this initial contact, did  
15                    Mr. Lightbody express his willingness to work  
16                    with you and your team in conducting your  
17                    review?

18          A     He did.

19          Q     Did you find Mr. Lightbody to be open and  
20                    forthright with you respecting amongst other  
21                    things the challenges in BCLC faced in  
22                    investigating and trying to deal with these  
23                    large quantities of cash coming into BC casinos?

24          A     I don't recall that specific, but I'm not  
25                    disagreeing. He was forthcoming, and it was a

1                   fairly candid discussion.

2                   Q     Do you recall Mr. Lightbody telling you he would  
3                   direct BCLC's executive and staff to cooperate  
4                   with you and provide you with access to all  
5                   information that you required to fulfill your  
6                   mandate?

7                   A     Yes. And I believe I acknowledge the assistance  
8                   in my report.

9                   Q     And do you recall Mr. Lightbody at this initial  
10                  meeting telling you that BCLC was committed to  
11                  reducing the risk of illicit moneys entering BC  
12                  casinos?

13                  A     I don't have an active recollection of that, but  
14                  I don't doubt that for a minute. I'm sure he  
15                  did.

16                  Q     Just to sort -- I know it's a number of years  
17                  ago, but just to sort of boil it down, I take it  
18                  it was apparent to you that Mr. Lightbody was  
19                  concerned about the cash coming into BC casinos  
20                  and wanted to get to the bottom of it and reduce  
21                  the risk that they were illicit proceeds? Is  
22                  that the impression you were left with?

23                  A     The impression I was left with was that  
24                  Mr. Lightbody, Mr. Kroeker and Mr. Desmarais  
25                  were willing to do what they could to help me in

1                   my endeavour, and they didn't put any bars in  
2                   my -- you know, in my way. They were very  
3                   forthcoming.

4                   Q     Do you recall Mr. Lightbody and Mr. Desmarais  
5                   and Mr. Kroeker telling you that BCLC had in  
6                   fact enhanced its AML regime during the time  
7                   that Mr. Desmarais and Mr. Lightbody and  
8                   Mr. Kroeker had been on the scene and as  
9                   leadership members at BCLC?

10                  A     Again, I don't have an active recollection, but  
11                  he may very well have.

12                  Q     Do you recall at the initial contact telling  
13                  Mr. Lightbody that you didn't want to stand in  
14                  the way of BCLC continuing to evolve its AML  
15                  controls while you were conducting your review?

16                  A     Yes, that actually is probably something that I  
17                  said a number of times throughout the process  
18                  because as you've no doubt heard, a number of  
19                  issues arise over time, initiatives that BCLC  
20                  has and so forth, and I'm doing my review; I'm  
21                  trying not to interfere with BCLC's normal  
22                  operations. As I didn't want to interfere with  
23                  GPEB or anyone else, I was simply doing my work.  
24                  And so that is something that I would have said.  
25                  I don't have that active recollection, but it is



1                   consistent with what I was telling people, you  
2                   know, I'm not asking you to stop doing what  
3                   you're doing, but your assistance would be  
4                   appreciated, and they were forthcoming.

5           Q       Do you recall during one of your initial  
6                   contacts with Mr. Lightbody the fact that you  
7                   had not yet met or spoken with BCLC's board  
8                   chair Bud Smith came up and, as a result,  
9                   Mr. Lightbody set up a video conference between  
10                  you and Mr. Smith and him?

11          A       Yeah. That was actually later in the process,  
12                  and one of the people, as you indicate, that I  
13                  had not spoken with yet was the chair and I  
14                  thought it was important that I do. And  
15                  obviously Mr. Lightbody did, and he approached  
16                  me on that. And I appreciated that offer. And  
17                  in fact we arranged -- or he arranged the  
18                  meeting. I was actually in Mr. Lightbody's  
19                  office, and he and the board chair were, I  
20                  believe, at their office in Kamloops. So we had  
21                  a three-way video chat, which was really very  
22                  helpful to me.

23          Q       Do you recall during this video chat the board  
24                  chair Mr. Smith told you that BCLC wasn't in the  
25                  law enforcement business and didn't see its role

1           as taking on the investigation of money  
2           laundering or proceeds of crime?

3           A     Yeah, I saw the two of them had a slight  
4           difference of opinion in a professional sense in  
5           that conversation. They were quite candid about  
6           that. Their approaches were slightly different.  
7           I did see the board chair was more of the view  
8           that this is not something for BCLC; he would  
9           rather see it moved elsewhere. And that's quite  
10          consistent with my view, that we need this  
11          strong regulator.

12          Q     And I take it, then, that you agreed with  
13          Mr. Smith that BCLC wasn't a law enforcement  
14          agency and shouldn't be conducting or attempting  
15          to conduct investigations into money laundering  
16          and proceeds of crime?

17          A     Correct.

18          Q     Do you recall Mr. Smith in this video conference  
19          saying that he and the whole of the BCLC board  
20          were concerned about what appeared to be a lack  
21          of an insistent law enforcement presence in  
22          gaming in BC over the previous number of years?

23          A     I don't have an active recollection of that. I  
24          do not doubt that for a minute and in fact that  
25          was also my view, that the police had been

1 absent for a number of years, and I mentioned  
2 that in the report.

3 Q Do you recall that both the board chair  
4 Mr. Smith and Mr. Lightbody made it clear to you  
5 that if there were things BCLC could do to  
6 reduce the risk of money laundering or if BCLC's  
7 role needed to change, BCLC was quite prepared  
8 to listen and adapt?

9 A Again, I don't have an active recollection, but  
10 that would be consistent with the conversation.

11 Q And as your review proceeded, did Mr. Lightbody  
12 and BCLC make good on their assurances to  
13 cooperate and respond to your inquiries and  
14 provide information?

15 A Yeah. And as I say, the conversation with the  
16 chair was near as I recall the end of my work,  
17 and during the time between the initial meeting  
18 and that, I did have contact with Mr. Lightbody,  
19 email, telephone call, that sort of thing, and  
20 he was always cooperative with me.

21 Q Thank you. I'd like to turn for a moment to  
22 your November 29, 2017 interim recommendations,  
23 and in particular the interim recommendation  
24 number 1, which you'll recall was a gaming  
25 service provider's complete a source of funds

1 declaration for cash deposits and bearer  
2 monetary instruments of \$10,000 or more. Do you  
3 recall that?

4 A Yes, I do.

5 Q Do you recall that once you issued that interim  
6 recommendation BCLC responded quickly and took  
7 steps to implement that recommendation?

8 A They did.

9 Q In fact do you recall that on December 12th,  
10 2017, so within two weeks Mr. Lightbody sent you  
11 an email advising you about the steps BCLC had  
12 taken to implement your recommendations?

13 A Yes, I believe so.

14 Q And do you recall Mr. Lightbody advising you  
15 that BCLC could in fact implement your  
16 recommendation as of December 18th, 2017?

17 A I don't have the date in my mind, but certainly  
18 both Mr. Kroeker and Mr. Lightbody reached out  
19 to me as a result of that interim recommendation  
20 and they were actioning it, and I do seem to  
21 recall that Mr. Lightbody had -- there was a  
22 discussion about the Christmas break; can we  
23 implement after Christmas, and again, I'm trying  
24 not to get involved in the details of it, so my  
25 response was something to the effect, whatever

1 works for you, Jim, you know, Mr. Lightbody; I'm  
2 not here to tell them how to do their business,  
3 it was obvious they were on it. Mr. Kroeker had  
4 a few questions about the details of the source  
5 of funds declaration, and again, I tried to  
6 steer away. I made my recommendation. I left  
7 it up to them, how they interpret it and how  
8 they implement it, the form they use and all  
9 those sorts of thing. You know, to sum that up,  
10 they acted right away as far as I'm concerned.

11 Q Then turning to your March 31st, 2018 report, so  
12 the first report, after it was released did you  
13 understand that Mr. Lightbody himself directed  
14 BCLC's response in terms of implementing all of  
15 your recommendations that BCLC was able to  
16 implement independently of other agencies?

17 A That's my understanding.

18 Q So you understood this was getting attention  
19 right from the top of BCLC's hierarchy?

20 A Yes.

21 Q Now, in addition to the recommendations in your  
22 first report, were you aware that under  
23 Mr. Lightbody's leadership BCLC took additional  
24 steps to reduce the risk of illicit proceeds  
25 entering BC casinos, including -- I think the

1                    wording that we've seen derisking money service  
2                    businesses in terms of no longer accepting  
3                    patrons' buy-ins sourced from money service  
4                    businesses?

5            A        Yes. The derisking of MSBs is not an issue that  
6                    I recall was brought to my attention or that I  
7                    was involved in in any way. It's not one of my  
8                    recommendations. I am aware now that there was  
9                    a derisking of MSBs by BCLC, so I think my  
10                   answer to you is yes.

11           Q        And you made some reference to -- as I  
12                    understood it in your evidence in response to  
13                    Mr. Martland's questions, but I just want to  
14                    clarify this. Were you also aware that while  
15                    your review was underway BCLC had proposed a  
16                    number of enhancements to its AML strategy,  
17                    including reducing the use of cash in casinos  
18                    such as changes to the PGF accounts and  
19                    delimiting convenience cheques and capping cash  
20                    payouts at \$25,000? Were you aware of that?

21           A        Again, as I mentioned yesterday, probably in  
22                    answer to Mr. Martland's question, there was a  
23                    lot of -- and I say quote-quote -- noise going  
24                    on, I think that's the term I used, and again,  
25                    not in the pejorative sense. There were a lot

1                   of things happening. BCLC had a lot of things  
2                   going on, and that may well have been one of  
3                   them. I don't have an active recollection of  
4                   the details. I know they had a number of  
5                   different initiatives underway at the same time  
6                   as I'm doing my report. And there were other  
7                   things happening as well.

8                   Q    And in the context of the discussions you'd had  
9                   with the BCLC leadership team about wanting at  
10                  the outset of your contact about wanting them to  
11                  continue with the reference, did you learn in  
12                  March 2018 the ministry of the Attorney General  
13                  informed Mr. Lightbody that the ministry wanted  
14                  BCLC to effectively stand aside on their efforts  
15                  to enhance the AML regime until your report  
16                  recommendations were released?

17                  A    Unfortunately I've seen a lot of disclosure  
18                  since, but at the time I was not being kept in  
19                  the loop. And I'm glad I wasn't. In terms of  
20                  conversations that the Attorney General and/or  
21                  the Deputy Attorney General had with BCLC and  
22                  GPEB, unless there was something directly  
23                  relevant to what I'm doing, but generally  
24                  speaking, I did not know what interaction was  
25                  taking place between them. So I was doing my





1 regimes are potentially problematic, aren't  
2 they?

3 MR. R.R. HIRA: Well, just a moment. We're now  
4 getting into speculation. He can give evidence  
5 about what he knows. His evidence is, I didn't  
6 know about this interaction between the Attorney  
7 General and BCLC; now, as a result of this  
8 commission and disclosure given to me, I know.  
9 So to ask him to comment or give his opinion or  
10 his speculation on whether that was good or bad  
11 is frankly out of his lane.

12 MR. McFEE: Well, with deference I'm not asking  
13 Dr. German to speculate. He's a well  
14 experienced individual and he's already given  
15 evidence that he told the BCLC representatives  
16 and others that their efforts to work within  
17 their own realm of AML shouldn't be impeded by  
18 his reviews, so I think it's an appropriate  
19 question.

20 THE COMMISSIONER: Well, if I understand your  
21 question, Mr. McFee, it's at least to the effect  
22 whether Dr. German agrees that delaying  
23 initiatives meant to abate money laundering is  
24 as a general proposition not a good idea given  
25 the nimbleness of crime. Is that essentially

1                   what you're asking?

2           MR. McFEE:  Yes, it's stated much better than I did,  
3                   but that's essentially the question.  Thank you.

4           THE COMMISSIONER:  Well, I'm not sure it is, but in  
5                   any event, I think that's kind of a -- it's  
6                   really a theoretical question, but I think  
7                   Dr. German can answer it.  It doesn't -- in  
8                   other words, it's not founded on any assumed  
9                   facts.  So I think you can go ahead, Dr. German.

10          THE WITNESS:  Thank you, Commissioner.  I guess my  
11                   issue with the question would be the causal  
12                   link.  To say that a certain initiative is doing  
13                   to have an impact, maybe the impact on organized  
14                   crime, we'd really have to look at the specific  
15                   initiative that we're talking about.  And so,  
16                   again, it is difficult.  It's really fact  
17                   specific.  It's issue specific.

18          MR. McFEE:

19          Q       Did you become aware that after your December  
20                   2017 interim recommendations were released and  
21                   implemented that BCLC was contemplating  
22                   implementing in addition a cash cap on the  
23                   amount a patron could buy in with?

24          A       Yes, I became aware of that.  I don't recall  
25                   just when I became aware of it.

1           Q     Well, maybe we can pin the timing down a little  
2                   bit.  It may assist you.  Do you recall that  
3                   during the course of your review and in  
4                   particular January 2018 BCLC's senior executive  
5                   team developed a proposal to limit cash buy-ins  
6                   to a maximum of \$25,000?

7           A     Okay.  So my interim recommendations were in  
8                   November.  If we're talking about January, I did  
9                   receive a call from Mr. Lightbody on that topic.

10          Q     Right.  And did you understand Mr. Lightbody was  
11                   asking for your input and advice on that topic  
12                   given your expertise and the fact that you were  
13                   in the midst of a review?

14          A     Yes.  I believe he wanted to ensure that  
15                   whatever it was that BCLC was hoping to do would  
16                   not conflict with where I was going for the very  
17                   reason that I just explained why, you know, you  
18                   don't want two sets of recommendations or two  
19                   initiatives that are at odds with each other.  
20                   So to me it made sense.  If they were thinking  
21                   of going ahead with something, he was seeking my  
22                   thoughts.  Now, but, again, I'm not trying to  
23                   impose myself on BCLC, and I'm, again, trying to  
24                   stay in my lane, so I did my best to, I think,  
25                   in that instance indicate that -- what my

1 thought process was then in terms of cash cap  
2 and I believe that figure of 25,000 came up, and  
3 I likely said words to the effect that, you  
4 know, I was not contemplating a cash cap at this  
5 time. I was always very careful that my  
6 recommendations are to the Attorney General, and  
7 so anything I said to other people was always  
8 caveated with that, that my recommendations were  
9 going to the Attorney General first. But with  
10 BCLC and the fact that he came to me, I had no  
11 problem, you know, giving him my thought process  
12 and if that helped him.

13 Q Right. And do you recall telling Mr. Lightbody  
14 that in addition to the fact that you weren't  
15 contemplating a cash cap that it wasn't timely  
16 because BCLC and GPEB hadn't yet had an  
17 opportunity to observe the impact of the  
18 implementation of your interim recommendations?

19 A I don't recall that specifically.

20 Q And I take it, then, from reviewing your report  
21 that you're not in favour of cash caps and you  
22 cautioned against taking a prescriptive approach  
23 such as that?

24 A That's correct.

25 Q Now, there's been some considerable discussion

1                   already in your testimony about the  
2                   recommendation in Mr. Kroeker's February 2011  
3                   report that the industry move to cash  
4                   alternatives?

5           A       Yes.

6           Q       And we see referenced in your report the  
7                   implementation of the -- I think we've referred  
8                   to them sometimes as PGFs but sometimes PGAs,  
9                   patron gaming fund accounts?

10          A       Yes, and I believe it's a four letter acronym,  
11                   but I've had difficulty with that as well.

12          Q       Fair enough. But I think we all know what we're  
13                   talking about. And then you're also aware that  
14                   a cheque hold program and a use of debit at cash  
15                   cages had been implemented?

16          A       Yes. Yes, cheque hold and debit added to cage.  
17                   Debit at the cage was for amounts in excess of  
18                   the ATM machines.

19          Q       And were you -- did you also learn in the course  
20                   of your review that in September -- September of  
21                   2012, so fairly early in the piece, BCLC banned  
22                   an individual for a year that was involved in  
23                   suspected cash facilitation?

24          A       I don't recall that specifically, but there were  
25                   a number of people banned over the years.

1           Q     And were you also -- did you learn in the course  
2                   of your review that in 2012 that Mr. Lightbody's  
3                   initiative BCLC developed what it referred to as  
4                   a table, an E table game strategy to try and  
5                   move the focus of the business away from  
6                   high-limit players to casual, light and moderate  
7                   players?

8           A     I don't recall that. I'm not saying it didn't  
9                   happen. I don't recall that.

10          Q     You were aware that these large cash buy-ins  
11                   that were a concern were principally being used  
12                   for high-limit games and the high-limit tables?

13          A     We're referring to the bags and boxes of cash  
14                   that were coming --

15          Q     Yes.

16          A     Yes, and a lot of that was going up to the VIP  
17                   room, but we're not just talking one casino.  
18                   There were other casinos, but primarily it is my  
19                   understanding that those large sums went up to  
20                   the VIP room on the second floor.

21          Q     So moving the industry away from high-limit type  
22                   games such as baccarat, et cetera, to a more  
23                   moderate casual player would in your view assist  
24                   with respect to reducing cash coming in large  
25                   amounts into casinos?

1           A     Well, again, my view is it gets back to where is  
2                    the cash coming from, source of funds. And a  
3                    lot of people like baccarat. It's very popular.  
4                    So, again, limiting the game or limiting the  
5                    amount of money I don't think is the issue. But  
6                    I'm not denying that people were looking for  
7                    solutions.

8           Q     And in terms of source of funds, you made  
9                    reference in your evidence and also in your  
10                   report to the MNP report?

11          A     Yes.

12          Q     And in fact you devote a chapter of your report,  
13                   chapter 21, to the MNP report?

14          A     Yes.

15          Q     And as you referred to in your evidence earlier  
16                   and partly in response to Ms. Henein's  
17                   questions, you noted one of MNP's  
18                   recommendations was that GPEB should consider  
19                   implementing a policy requirement that service  
20                   providers refuse unsourced cash deposits  
21                   exceeding an established dollar threshold. Do  
22                   you recall that?

23          A     Yes.

24          Q     And to your knowledge did GPEB implement such a  
25                   policy requirement?

1           A     I think the first sourcing recommendation came  
2                    from me in my report. I'm not aware of a  
3                    requirement from GPEB.

4           Q     Now -- but when you say the first sourcing  
5                    requirement, I'd like to focus on that for a  
6                    moment. When you authored your report were you  
7                    aware that BCLC had implemented a source of  
8                    funds requirement for identified high-risk  
9                    patrons starting in April of 2015?

10          A     There's a -- you know, that is an interesting  
11                    issue because there was correspondence going  
12                    between GPEB and BCLC with respect to source of  
13                    funds. And yet MNP in its report, which was  
14                    issued, as you say, in 2016, sees this as an  
15                    issue. And there's -- there is -- and, again,  
16                    I'm going by memory, but there is a certain  
17                    amount of correspondence from GPEB asking BCLC  
18                    certain things, but whether it's a directive or  
19                    there was some discussion about is it a  
20                    directive or is it a recommendation, and, again,  
21                    I would have to see the correspondence to be  
22                    specific, but I know it was a topic of  
23                    discussion. MNP makes a couple of  
24                    recommendations dealing with source of funds and  
25                    unsourced funds in 2016.



1 Q Maybe we can just focus it a bit to assist you.

2 Madam Registrar, if we could look at what

3 I've got in the bottom right-hand corner as

4 page 128, so it's probably PDF 131, it's

5 page 131 of Dr. German's first report, March

6 31st, 2018, which is exhibit 832. That's the

7 page.

8 In particular the middle particular,

9 Dr. German. You see your paragraph 535(c). Do

10 you have that?

11 A I see it.

12 Q You see it says:

13 "BCLC points out that its sourced cash

14 condition initiative began in April 2015

15 and was implemented in September 2015;

16 however it also notes that cash was

17 refused prior to the initiation of the

18 program."

19 Now, just stopping there. What understanding

20 did you gain in your review as to what BCLC's

21 sourced-cash condition program consisted of?

22 A Right. So the sourced-cash condition program

23 was a matter of moving people from cash to not

24 allowing them to buy in with cash if they were

25 on a particular list. And it led to an

1                   interview process that BCLC conducted of  
2                   high-risk gamblers. I'm not aware of cash  
3                   itself being refused at the cages. This issue  
4                   was moving people -- and there's a memo also in  
5                   my report from -- I believe it's authored by  
6                   Mr. Alderson, where they look at their high-risk  
7                   gamblers and they say, we are now going to  
8                   interview them and talk about source of funds  
9                   with them, and if we come to a determination  
10                  that they should not be buying in with cash,  
11                  we're going to move them to other methods of  
12                  buy-in, which I'm assuming would be PGA. So  
13                  this initiative was underway in 2015.

14                 Q     But did you understand that the program wasn't  
15                         just trying to move patrons to cash  
16                         alternatives. That was part of it. But also if  
17                         the patron couldn't establish that they'd  
18                         acquired their cash from a legitimate source and  
19                         were unprepared to move to cash alternatives  
20                         they were banned from further use of cash at all  
21                         in the casinos?

22                 A     I was actually quite concerned by the memo that  
23                         was sent -- the memo from BCLC that discussed  
24                         this process. It really was a matter of  
25                         speaking to gamblers that were involved in

1           suspicious transactions and talking to them  
2           about how they can gamble but without cash. And  
3           I quote from that memo in my report. We could  
4           find that. So I had some concerns about this  
5           process at the time.

6           Q     But my question was a little more focused than  
7           that. Did you understand that if a patron  
8           couldn't establish that they'd acquired their  
9           cash from a legitimate source and they were  
10          unprepared to move to cash alternatives they'd  
11          be banned?

12          A     You would have to show me the particular  
13          document, but I -- that may have been in there.  
14          I don't recall specifically what the  
15          instructions were. I recall that -- the move to  
16          cash conditions. And I'm also aware that  
17          different people were banned.

18          Q     Did you have any understanding as to what led to  
19          the banning?

20          A     Well, people get banned from the casino for a  
21          number of different reasons. The problem is not  
22          so much banning the individual. It's preventing  
23          the cash from coming in. And that was a big  
24          problem that I think everybody was trying to  
25          deal with, is you ban a person and next thing

1           you know someone else comes in. It's not so  
2           much the individual as it is the cash. There  
3           were a lot of people, whether you call them  
4           smurfs or what you want to call them, people  
5           coming in with money. So the banning of the  
6           people was not sufficient. Something more had  
7           to be done.

8           Q     Well, did you understand that BCLC's  
9           sourced-cash conditions program was more  
10          extensive than you've described it, that BCLC  
11          with the assistance of the service providers  
12          were identifying which patrons seemed to be  
13          getting cash dropoffs from cash facilitators  
14          that were suspected of bringing in illicit  
15          proceeds and specifically targeting those  
16          individual patrons for interviews and  
17          ascertaining the source of their funds?

18          A     I'm wondering why they were taking that money in  
19          the first place.

20          Q     My question was more focused -- sorry, go ahead.

21          A     I'm sorry. No, I'm sorry. We're talking about  
22          a cash to conditions program. My issue was  
23          these people should not be coming in in the  
24          first place with this cash. Why are we now  
25          talking to them about other ways that they can

1 bring their money in? That was my issue with  
2 the memo.

3 Q Well, yeah, I'm not so much focused on the memo.  
4 I'm talking about the sourced-cash conditions  
5 program and your understanding of it. Did you  
6 understand that a core portion of that program  
7 was interviewing the patron to determine the  
8 source of their funds?

9 A Correct.

10 Q And if they couldn't establish a legitimate  
11 source of their funds, a number of patrons were  
12 banned. Did you understand that?

13 A I think there's another step in the middle  
14 there. Again, you can show me the document, but  
15 my understanding is if they could not  
16 satisfactorily explain where the cash was coming  
17 from, they could be moved to cash conditions.  
18 But, again, I would have to see the document to  
19 be -- it's been a while.

20 MR. MARTLAND: Mr. Commissioner, I'll let Mr. McFee  
21 know he's at his time.

22 MR. McFEE: Okay. Fair enough. Thank you,  
23 Mr. Martland. I'll try and wrap this up  
24 quickly, then, if that's appropriate,  
25 Mr. Commissioner.

1 THE COMMISSIONER: Yes, that's fine, Mr. McFee.

2 MR. McFEE: Thank you.

3 Q But just to sort of wrap this up, Dr. German,  
4 did you in the course of your review learn that  
5 in the fall of 2015 BCLC as part of the  
6 sourced-cash conditions program had banned  
7 105 patrons?

8 A I don't know the number, sir. I don't know that  
9 specifically.

10 Q Well, did you learn that many patrons had been  
11 banned under the sourced-cash condition program?

12 A Again, it doesn't -- I'm not disputing that it  
13 may well have occurred, but I don't know how  
14 many and I would want to know what specifically  
15 they were banned for. And I don't have that  
16 detail in front of me.

17 Q And I take it, then -- or I should ask you this:  
18 in the course of your review did you inquire  
19 into whether patrons were banned under the  
20 sourced-cash conditions program and the reasons  
21 for banning?

22 A Well, I do refer to people being banned, as I  
23 recall, in my report, and certainly it was  
24 taking place. But, again, cause and effect.  
25 Were people being banned because they were

1                   failing the interviews and were not considered  
2                   satisfactory for cash conditions? I'm not  
3                   prepared to go there. I don't have that  
4                   information at my fingertips and I don't recall.

5           Q       But you would agree with me that if patrons were  
6                   being banned because they couldn't establish  
7                   that their funds came from a legitimate source,  
8                   that was BCLC saying no, we don't want your  
9                   business and we don't want your money because  
10                  you can't establish a legitimate source of your  
11                  funds; correct?

12          A       Again, that's hypothetical because I don't know  
13                  that one led to the other. I would have to see  
14                  the documentation on these different people that  
15                  were banned. If you're saying they were banned  
16                  because of this particular initiative.

17          Q       And if they were banned because of that  
18                  particular initiative that was the equivalent of  
19                  BCLC saying no to illicit -- potential illicit  
20                  proceeds. You would agree that?

21          A       Yeah, I'm not disputing that BCLC was in 2015  
22                  trying to do something about this problem.  
23                  There's no dispute about that.

24          MR. McFEE: Okay. Those are my questions. Thank  
25                  you.

1 THE COMMISSIONER: Thank you, Mr. McFee.

2 I think this might be an appropriate time  
3 to take a break, Mr. Martland.

4 MR. MARTLAND: Yes. Thank you.

5 THE COMMISSIONER: All right. Thank you. We'll take  
6 20 minutes after which Ms. Tweedie on behalf of  
7 the BC Civil Liberties Association will have an  
8 opportunity to cross-examine Dr. German and  
9 she's been allocated 20 minutes. But we'll take  
10 a 20-minute break right now.

11 THE REGISTRAR: This hearing is adjourned for a  
12 20-minute recess until 11:22 a.m.

13 **(WITNESS STOOD DOWN)**

14 **(PROCEEDINGS ADJOURNED AT 11:02 A.M.)**

15 **(PROCEEDINGS RECONVENED AT 11:21 A.M.)**

16 **PETER GERMAN, a witness**  
17 **for the commission,**  
18 **recalled.**

19 THE REGISTRAR: Thank you for waiting. The hearing  
20 is resumed. Mr. Commissioner.

21 THE COMMISSIONER: Yes, thank you, Madam Registrar.

22 Yes, Ms. Tweedie.

23 MS. TWEEDIE: Thank you, Mr. Commissioner.

24 **EXAMINATION BY MS. TWEEDIE:**

25 Q Good morning, Dr. German.



1 A Good morning.

2 Q Before turning to your report, I'm going to ask  
3 if Madam Registrar can please bring up a  
4 document for which I gave notice, and that is a  
5 letter addressed to commission counsel enclosing  
6 a report from the BC Centre for Substance Use?

7 THE REGISTRAR: Mr. Hira, for your information this  
8 document is at tab 2?

9 MR. R.R. HIRA: Yes. It's a document with a bit of  
10 blue on it. Yes.

11 MS. TWEEDIE: Thank you, Madam Registrar.

12 Q This document consists of a letter and report  
13 from Dr. Evan Wood, who is a physician and  
14 clinician scientist at the BC Centre for  
15 Substance Use. And it encloses a report that's  
16 titled "*Heroin Compassion Clubs, a Cooperative*  
17 *Model to Reduce Opioid Overdose Deaths and*  
18 *Disrupt Organized Crime's Role in Fentanyl,*  
19 *Money Laundering and Housing Affordability.*"  
20 Dr. German, I assume you were forwarded this  
21 document by commission counsel and have had a  
22 chance to review it.

23 A I have, yes.

24 Q Thank you. I don't intend to go over this  
25 report with you, but I have some general

1                    questions arising from Dr. Wood's submission.

2                    So first I assume given your background you  
3                    would agree that drug prohibition is a source of  
4                    immense profit for organized crime?

5                    A     Yes.

6                    Q     And that the proceeds of the illicit drug trade  
7                    make up a significant portion of the money that  
8                    is laundered by organized crime?

9                    A     Correct.

10                   Q     And BC has a longstanding or has had  
11                   longstanding drug-related organized crime  
12                   concerns?

13                   A     Correct.

14                   Q     And in fact the most lucrative crimes in  
15                   Vancouver are related to illegal drug sales?

16                   A     I think that's a fair statement.

17                   Q     Okay. Thank you. It's actually from your  
18                   report, so I'm glad you agree.

19                   A     Thank you.

20                   Q     And would you agree with Dr. Wood that the  
21                   current approach to drug prohibition has had the  
22                   unintended consequence of enriching organized  
23                   crime groups and thereby promoting money  
24                   laundering?

25                   A     I would have to explain my answer on that one.

1 I'm familiar with the issue of harm reduction.  
2 I read the submission. There is no doubt that  
3 drug trafficking, as you've pointed out, does  
4 lead to immense profits for organized crime.  
5 Now, resolving that, I'm not a medical expert, I  
6 don't pretend to be. I think there are some --  
7 harm reduction has a place, and -- but I want to  
8 be a little bit more -- if you could be a little  
9 bit more specific in terms of the questioning,  
10 that would help me.

11 Q Sure. I suppose I'll try to put it more simply.  
12 Would you agree that drug prohibition has the  
13 unintended consequence of enriching organized  
14 crime groups, seeing as the majority of profits  
15 derived by organized crime come from illegal  
16 drug sales?

17 A Well, I don't -- I don't draw a direct cause and  
18 effect because in my lay opinion, organized  
19 crime will move within commodities, so we're  
20 seeing this with the cannabis situation. You've  
21 still got organized crime working in cannabis  
22 and dealing with cannabis. They're going to try  
23 to find what illegal cannabis outfits --  
24 cannabis outlets cannot provide, whether it is  
25 price, whether it is better quality, you name

1                   it. So organized crime adapts, and that's one  
2                   of the big problems with organized crime.

3           Q        Okay. But would you agree that moving from an  
4                   unregulated to a regulated market for illegal  
5                   drugs could eliminate or at least reduce a key  
6                   source of revenue for organized crime aside from  
7                   the fact that they will perhaps move elsewhere  
8                   but just to answer that question, please.

9           A        I'll agree with that. Yes, thank you.

10          MS. TWEEDIE: Thank you. May I please have that  
11                   document marked as the next exhibit, and, Madam  
12                   Registrar, we could take that down now as well.

13          THE COMMISSIONER: Yes. That will be marked as the  
14                   next exhibit.

15          THE REGISTRAR: Yes. Exhibit 836, Mr. Commissioner.

16                   **EXHIBIT 836: BC Centre On Substance Abuse -**  
17                   **August 21, 2020 submission**

18          MS. TWEEDIE: Thank you. And, Madam Registrar, I'm  
19                   hoping you could please bring up Dr. German's  
20                   first report at page 33. So paragraph 95 to 98.  
21                   Thank you.

22          Q        And, Dr. German, I just have a couple of  
23                   questions about Asian organized crime. Under  
24                   this heading you have four paragraphs setting  
25                   out an overview of Asian organized crime. You

1 cite one paper by Ning-Ning Mahlmann, which you  
2 can see at the bottom of the page. It's no  
3 longer available at the link provided. My  
4 question is what other sources did you use to  
5 inform this summary?

6 A I believe Ning-Ning Mahlmann is still with the  
7 FBI and you will still find her material online,  
8 maybe not this specific article, which would  
9 have been online at the time. John Langdale was  
10 of considerable assistance to me when it came to  
11 understanding Asian organized crime. Now, I  
12 obviously had some familiarity from my time in  
13 policing. I have been in Mainland China, been  
14 in Hong Kong, Japan, Thailand on work-related  
15 matters. So I have some familiarity. But John  
16 Langdale, who I credit with the term "Vancouver  
17 model" has -- was very helpful to me in terms of  
18 the current state of affairs with respect to  
19 organized crime in that part of the world.

20 Q Okay. Thank you. And at paragraph 96 you  
21 state:

22 "Of greatest interest to this review,  
23 however, is organized crime which emanates  
24 from Mainland China."

25 You go on to acknowledge that there's very

1           little publicly available intelligences in  
2           Canada available on this. Can I ask how you  
3           reached that conclusion, the conclusion that of  
4           greatest interest to this review is organized  
5           crime that emanates from mainland China, to be  
6           clear.

7           A     Right. So, again, you know, personal knowledge,  
8           experience from my time in policing. Certainly  
9           conversations with John Langdale. But I think  
10          it's understood that a lot of the  
11          methamphetamine trade, a lot of precursors  
12          originate in China. And China itself has been  
13          very tough on crime within its borders. China  
14          itself is very concerned about these issues. So  
15          there's a lot of literature on that subject.

16          Q     Okay. Sorry, I'm hoping you could clarify a bit  
17          further why you stated that it was -- that that  
18          was the organized crime emanating from China  
19          that is the greatest interest to this review.  
20          Is that your perception of the volume, or ...

21          A     Again we're talking in many ways the Vancouver  
22          model and what was taking place and the  
23          underground banking. The flowcharts and the  
24          description of the Vancouver model are all in  
25          the report, but clearly money was coming over

1                   from China and it was being brokered through  
2                   underground bankers. We know that. That was  
3                   information provided by the RCMP. They're very  
4                   clear on that in terms -- and they actually  
5                   refer to China specifically, and I believe  
6                   you'll find that in the report as well.

7                   But I tried to be very careful in my report  
8                   to point out that the actual individuals that  
9                   came over to gamble here as well as the people  
10                  providing money in China may well have been  
11                  dupes to what was taking place over here in  
12                  North America, in Canada. I am not suggesting  
13                  that the gamblers were necessarily involved in  
14                  organized crime, but you have this international  
15                  organized crime linkage, and the best way of  
16                  answering that is to refer you within the report  
17                  to what the RCMP themselves provided. Because  
18                  that to me was really pretty critical in my  
19                  work: what is the predicate crime, what is  
20                  taking place here. I think there are a lot of  
21                  unanswered questions which I think we were all  
22                  hoping to have answered with the E-Pirate and  
23                  the E-Nationalize investigation. We know the  
24                  E-Pirate investigation collapsed. The  
25                  E-Nationalize is still at the charge approval

1                   stage. But I think, though, in terms of that  
2                   linkage chart that you see there, which I  
3                   believe comes from the E-Pirate -- I'm not  
4                   100 percent sure of that, but that's my  
5                   impression -- there are a lot of unanswered  
6                   questions, you know, where the money flowed, how  
7                   it gets back to North America in terms of  
8                   commodities and so forth, but China is central  
9                   to all of this.

10                MS. TWEEDIE: Thank you. Madam Registrar, we can  
11                take that down now. Thank you.

12                Q    I now have a few general questions about your  
13                evidence and recommendations. First on the  
14                topic of FINTRAC. Yesterday counsel for Canada  
15                raised the issue of FINTRAC's independence from  
16                law enforcement and you agreed that this is  
17                protected by section 40 of the *PCMLTFA*; is that  
18                correct?

19                A    I don't know that I referred to the section, but  
20                it is a structural issue with the legislation,  
21                correct.

22                Q    Okay. Thank you. I assume you would also agree  
23                that FINTRAC's independence from law enforcement  
24                is a key safeguard of the reasonableness of the  
25                *PCMLTFA* under section 8 of the charter?



1           A     It has been explained that way in terms of  
2                    protection of financial information and so  
3                    forth, but what I pointed out yesterday and my  
4                    firm belief is that we would be moving to a  
5                    model which allows law enforcement to be present  
6                    and still ensure that there are protections in  
7                    place. I think we can find that happy balance,  
8                    and you do see that in other countries, the  
9                    majority of other countries that have FIUs, if I  
10                  may say.

11          Q     Yes, other countries with different  
12                  constitutions of course.

13          A     No, understood. This is very much a product of  
14                  charter and privacy issues, yes.

15          Q     Thank you. Next on the topic of unexplained  
16                  wealth orders which you spoke about briefly  
17                  yesterday as well, would you agree that because  
18                  of concerns such as the reverse onus of proof  
19                  and the subversion of rights against  
20                  unreasonable search and seizure that UWOs raise  
21                  civil liberties concerns?

22          A     Well, I'm sure there will be people that will  
23                  raise civil liberty concerns. From my  
24                  perspective just looking at it from a practical  
25                  and to a certain extent a legal perspective, I

1 think we would have considerable, as you  
2 indicate, problems having that in the criminal  
3 regime because of the reverse onus that seems,  
4 you know, part and parcel of it. It would be a  
5 useful tool for civil forfeiture. But, again, I  
6 am a little concerned that it might not be as  
7 effective as people might want it. It would be  
8 a difficult one, I think, in our current  
9 environment. And civil liberties concerns would  
10 be part of it. The length of time we're seeing  
11 with lengthy -- with civil forfeiture cases,  
12 charter concerns being raised in civil  
13 forfeiture cases, so it would be, I think, a  
14 tough slog, but I do believe that they are an  
15 appropriate tool or would be a helpful tool for  
16 the right cases.

17 Q Okay. But there's no empirical evidence  
18 suggesting that UWOs are an effective strategy  
19 for combatting money laundering. That's  
20 correct; right?

21 A I couldn't answer that. I would have to check  
22 the UK and Australia literature that led to  
23 their UWOs. But I can certainly see situations  
24 such as one that I believe has been described to  
25 this commission in previous testimony, the

1 incident of the case that came to the British  
2 courts with respect to unexplained wealth and,  
3 you know, believed to be of criminal origin.  
4 How do you deal with those massive sums of money  
5 that cannot be explained and that -- where there  
6 are all sorts of implications of criminal  
7 origin. So I think it's something that society  
8 has to deal with. I just don't know if this  
9 tool will work in our Canadian context.

10 Q Thank you. Lastly, on the topic of beneficial  
11 ownership registries, you gave evidence  
12 yesterday that in your opinion they should be  
13 public with certain caveats; is that correct?

14 A Yes.

15 Q And I assume you would agree that there are  
16 lawful privacy related and other justifiable  
17 reasons that people may not want their personal  
18 information on a public registry?

19 A Well, we do have a land title office and you can  
20 search land title offices. So, you know, that  
21 information is public. The problem is that you  
22 could have nominee ownership and so forth, and  
23 yes, that -- there are people that don't want to  
24 be known for whatever reason. Again, it's a  
25 balance between the protection of society --

1                   because criminals can hide behind that, just  
2                   like some people don't want to be known  
3                   publicly. And that is a decision for  
4                   parliament, for our legislators to make. There  
5                   is a balance, no question about it. But I think  
6                   that if you don't have a public registry, there  
7                   is no visibility for the public. And  
8                   journalists and so forth will not have an  
9                   opportunity to look at the registry.

10                   Now, there could be specific -- I would  
11                   think if you were creating one, you would  
12                   probably want a provision that an application  
13                   could be made to the court to have certain  
14                   information blocked from public access for good  
15                   reason, for safety reasons, for example. I  
16                   could easily see that. A person on a witness  
17                   protection program or a high-profile individual  
18                   facing threats. There has to be some vehicle to  
19                   allow that person's protection. So that might  
20                   be part of a balancing mechanism.

21                   Q     Okay. So to be clear, you agree that  
22                   individuals should have the ability to apply for  
23                   an exemption in the face of personal security  
24                   threats or the like?

25                   A     Yes, I could see that, correct.

1 MS. TWEEDIE: Thank you. Those are all my questions,  
2 Dr. German. Thank you.

3 Thanks, Mr. Commissioner.

4 THE COMMISSIONER: Thank you, Ms. Tweedie.

5 I'll turn do you to Ms. Dickson on behalf of  
6 the Canadian Bar Association and the Criminal  
7 Defence Advocacy Society, who has been allocated  
8 20 minutes.

9 MS. DICKSON: Thank you.

10 **EXAMINATION BY MS. DICKSON:**

11 Q Dr. German, can you hear me?

12 A I can. Thank you.

13 Q I want to pick up on your evidence concerning  
14 the no cash or no transaction rule. As I  
15 understand your opinion yesterday, it's  
16 two-fold. One, you think that a client should  
17 not under any circumstances be able to pay a  
18 lawyer in cash for the provision of legal  
19 services?

20 A I've raised the issue of the no-cash rule,  
21 correct.

22 Q Okay. And it's your view that that issue or  
23 rule, as it were, your opinion on it should be  
24 applied universally?

25 A But my opinion is that if lawyers are accepting

1 cash, regardless of the purpose why they're  
2 accepting cash, we want to make sure that that  
3 cash is not of illegal origin. So the issue  
4 that I take with the no-cash rule with  
5 exemptions is that okay, it's fine to say we're  
6 not taking any cash, but we'll take it for  
7 certain purposes. That's the problem I have.  
8 So I suppose in some ways it goes back to this  
9 issue of source of funds. Do we want lawyers to  
10 be accepting cash for their fees which may be  
11 dirty money, so to speak, of criminal origin but  
12 not for other purposes? That's the issue that I  
13 [indiscernible].

14 Q I see. And you accept that a hard comprehensive  
15 cash rule like the one you suggest would prevent  
16 some people from obtaining legitimate legal  
17 advice?

18 A Well, if you're asking what I would like to see,  
19 the thing that I have suggested in my report is  
20 that lawyers should be reporting as they do in  
21 the United States cash over \$10,000. The 7,500  
22 is actually a lower threshold than you see in  
23 the United States. But my view is universal  
24 cash reporting for all industries over a certain  
25 amount. Now, whether that reporting is to a

1                   third party in the case of lawyers, that's fine.  
2                   The idea being to report over \$10,000 whether  
3                   it's fees, disbursements or for any other  
4                   purpose. To me that makes sense rather than  
5                   it's bad for some purposes but not bad for other  
6                   purposes.

7           Q       But you accept there's a public interest in  
8                   maintaining confidentiality and the importance  
9                   of solicitor-client privilege?

10          A       Definitely, and I tried to emphasize that  
11                   yesterday. I think that's critically important.  
12                   I'm a lawyer. I believe very strongly in  
13                   solicitor/client privilege. We want to protect  
14                   that, and that's why I've suggested a form of  
15                   third party reporting seems to me to be the best  
16                   workaround.

17          Q       My friend for the Law Society took you through  
18                   some of the aspects of the rule concerning the  
19                   handling of cash. There's one additional aspect  
20                   of it I'd like your understanding of. You're  
21                   aware following the changes in July of 2019, so  
22                   after the publication of Dirty Money 2, that a  
23                   lawyer who receives or accepts other cash for  
24                   professional fees disbursements or expenses in  
25                   an aggregate amount greater than \$7,500 must

1                   make any refund in cash?

2           A        Yes, I -- yes.

3           Q        And you agree that's an additional safeguard  
4                   against the potential for money laundering?

5           A        Yeah, again I think the Law Society has been  
6                   doing an admirable job, you know, within their  
7                   agreement.

8           Q        You'd agree, Dr. German, that profound  
9                   constitutional interest would be implicated by a  
10                  blanket hard no-cash rule?

11          A        I'm in favour of universal cash reporting as I  
12                  indicated. That's my view. I'm not saying no  
13                  cash. I'm saying report cash over \$10,000 or  
14                  whatever threshold you want to impose.

15          Q        Well, as I understood your evidence, your  
16                  opinion and suggestion is two-fold. One aspect  
17                  of that, your alternative suggestion, is that  
18                  there be reporting, but the other aspect is that  
19                  no cash be accepted, including for legal advice.  
20                  Do I have that wrong?

21          A        I guess those are two alternatives. I  
22                  personally would be in favour of either, but I  
23                  think the -- probably the more feasible one  
24                  would be universal cash reporting. We allow  
25                  other industries to receive money. Why wouldn't



1                   we allow lawyers to receive cash as well. So I  
2                   say the same thing about auction houses, boat  
3                   dealers, car dealers, lawyers. I believe they  
4                   all should report. And then it protects as far  
5                   as I'm concerned lawyers as much as anything  
6                   else. It protects boat dealers, it protects  
7                   auction houses.

8                   Q    If I may, I'd like to put a few brief  
9                   hypotheticals to you. So the first is on your  
10                  hard blanket comprehensive no-cash rule for  
11                  legal advice or the provision of legal services,  
12                  a woman fleeing domestic violence, for instance,  
13                  who wishes to use cash so as to remain anonymous  
14                  from her abusive husband, you would say no cash  
15                  for legal advice in that circumstance?

16                 A    Well, I think -- no. Again, my preference is  
17                  universal cash reporting up to a certain  
18                  threshold. That's my preference. That's what  
19                  I've indicated in my report.

20                 Q    So at least three times in Dirty Money 2 you  
21                  also refer to a criticism, as I understand it,  
22                  of cash for the provision of legal services.  
23                  Are you retracting on that evidence?

24                 A    You'd have to show me the specific provision  
25                  that you're referring to. I've tried to be

1 clear about universal cash reporting, but if you  
2 could show me a specific paragraph.

3 MS. DICKSON: Okay. Madam Registrar, if you could  
4 please bring up exhibit 833. And turn to  
5 page 15 of the report. I don't know what the  
6 PDF page is, my apologies. But it's the  
7 executive summary on lawyers and notaries.

8 THE REGISTRAR: Sorry, this is the report number 2.

9 MS. DICKSON: That's correct. Report page 15.

10 THE REGISTRAR: This is 15, but there is no --

11 MS. DICKSON: Thank you. If you could scroll up.

12 Q And so we're looking now, Dr. German, under the  
13 heading "Lawyers and Notaries."

14 And now, Madam Registrar, if you could  
15 please scroll down slightly. Oh, thank you. If  
16 you could go back. Continue to go down page 15,  
17 please.

18 So in the paragraph beginning with "in BC,"  
19 Dr. German, the final sentence:

20 "In terms of cash --"

21 Do you see that?

22 A Yes, I do, m'mm-hmm.

23 Q "-- it's been frequently noted that  
24 lawyers cannot accept in excess of \$7,500  
25 (less still for notaries), and yet the

1 exceptions to that rule allow for any  
2 amount of cash for the payment of fees and  
3 expenses, and for bail."

4 So I took your use of "and yet" as being  
5 critical of the use of cash for legal services.  
6 Do I have that correct?

7 A Well, what I'm saying is it's not a no-cash rule  
8 if you can accept cash for certain purposes.  
9 It's a no-cash rule except. If you look at the  
10 findings in that chapter, which are at the  
11 beginning, I make a number of findings and the  
12 finding that I make is that there should be  
13 universal cash reporting. That's what my  
14 finding is on that. And I say that at the top  
15 of page 123:

16 "The simplest solution may be to follow  
17 the US example, where lawyers are required  
18 to file reports on any transaction which  
19 they receive more than \$10,000 in cash."

20 That was my finding.

21 Q So is it your evidence now that it would be  
22 appropriate to accept cash for the provision of  
23 legitimate legal advice?

24 A Yes. If we were to put in universal cash  
25 reporting, I would agree with that.

1           Q     Just in closing, Dr. German, you didn't  
2                    undertake in either of your reports anything  
3                    like an analysis of whether a cash rule would be  
4                    consistent with the principles of fundamental  
5                    justice, did you?

6           A     No.

7           Q     You didn't undertake an analysis of whether a  
8                    breach of section 7 would be justified under  
9                    section 1 concerning a universal no-cash rule,  
10                  did you?

11          A     No. So my report was not a legal opinion. And  
12                  I'm not offering a legal opinion. This is my --  
13                  I'm acting as a consultant here. I'm providing  
14                  you with my thoughts, and I'm -- it's not just  
15                  lawyers. I've referred to the universal cash  
16                  reporting, a whack a mole issue as we called it  
17                  throughout the report, and I just simply see it  
18                  as a universal solution.

19                         Now, to answer your questions, would  
20                         universal cash reporting offend fundamental  
21                         justice if there's a third party reporting  
22                         system? I have no idea. I would like to think  
23                         that if there's third party reporting that  
24                         lawyers could accept cash and there would be a  
25                         reporting process put in place and then we would

1                   be in compliance with the FATF, lawyers would  
2                   not be at risk. It would be part of the  
3                   reporting system. And solicitor-client  
4                   privilege would still be protected.

5           Q       Did you consult any criminal defence lawyers in  
6                   the course of your two reports?

7           A       I spoke with the Law Society itself and I spoke  
8                   with the executive director. I spoke with the  
9                   president. I don't know if I spoke specifically  
10                  with criminal defence lawyers. We'd have to  
11                  look in the index of people that I spoke to.  
12                  Well, I did speak with criminal lawyers, but I  
13                  don't know about in this context.

14          Q       And how about constitutional scholars with  
15                   expertise in this area? Did you consult --

16          A       No, no. No, I did not.

17          Q       Indeed, your terms of reference when you were  
18                   appointed by David Eby to undertake this  
19                   examination and inquiry concerned trust accounts  
20                   with respect to real estate transactions. Isn't  
21                   that right?

22          A       Well, we'd have to go back to the terms of  
23                   reference to see specifically what it said about  
24                   lawyers. I don't recall right now. If you'd  
25                   like to go back to that we could take a look at

1           it. I just think this is a really important  
2           area for lawyers to be interested in. Trust  
3           accounts is a concern. No question about it.  
4           And the Law Society is dealing with that. The  
5           Law Society has also been dealing with the cash  
6           rule and the fact that it's at 7,500 and can  
7           certain restrictions have been put in place is  
8           to the credit of the Law Society. I'm just  
9           saying I don't think -- I think we can go  
10          further.

11          MS. DICKSON: Okay. Thank you, Dr. German. Those  
12          are my questions. Thank you, Mr. Commissioner.

13          THE WITNESS: Thank you.

14          THE COMMISSIONER: Thank you, Ms. Dickson.

15                   I'll turn now to Mr. Rauch-Davis on behalf  
16                   of Transparency International Coalition, who has  
17                   been allocated 20 minutes.

18          **EXAMINATION BY MR. RAUCH-DAVIS:**

19          Q     Dr. German, can you hear me okay?

20          A     I can, thank you.

21          Q     Great. So I understand from your second report  
22                   that you identified the use of legal entities  
23                   including corporations and other legal  
24                   arrangements as one of the key indicators of  
25                   money laundering in the real estate context. Do

1 I have that right?

2 A That's fair.

3 Q Yeah. And I wonder based on your experience and  
4 research in preparing these reports would you  
5 also generally agree that the distortion of  
6 beneficial ownership dramatically complicates  
7 money laundering investigations and asset  
8 recovery efforts by law enforcement?

9 A I agree.

10 Q Yeah. And so you've given a bit of evidence for  
11 the commission that you support a public  
12 corporate beneficial ownership registry and I  
13 wonder if you could -- perhaps I'll open it up  
14 on why you support a public registry.

15 A Transparency. Which I think you're quite  
16 familiar with. And Transparency International  
17 itself has been a wonderful advocate globally  
18 for issues such as this. And I learned a lot  
19 from Transparency through the years because  
20 they've shed a light on this issue of -- if  
21 things are opaque, nobody knows what's behind  
22 the door. If things are transparent, you can  
23 see what's behind the door. And for most  
24 purposes, I don't think we need be concerned  
25 about transparency. I think it's the way.

1                   Shedding light on an issue is generally the best  
2                   way to deal with it, in my humble opinion. So  
3                   for that reason, I do support a public registry.  
4                   I realize as I indicated a few moments ago to  
5                   Ms. Tweedie, there may be some protections that  
6                   have been to be put in place for very good  
7                   legitimate reasons, so I'm not suggesting  
8                   necessarily blanket, but I do believe the way to  
9                   go is public.

10            Q       All right. And part of that reasoning, would  
11            you agree, kind of relates to the transnational  
12            nature of money laundering in that the predicate  
13            offence is often in another jurisdiction? The  
14            best person to inform on those predicate  
15            offences will themselves be in a foreign  
16            jurisdiction. Could you agree with that  
17            statement?

18            A       Yes, I agree.

19            Q       And that's where a private registry fails. If  
20            it's only accessible by Canadian law enforcement  
21            and Canadian regulators, there's no way for the  
22            foreign informant or foreign civilian to provide  
23            tips?

24            A       That's certainly another reason in favour of a  
25            public registry. And it leaves the bigger



1                   problem that, you know, we live in a global  
2                   society which is structured according to nation  
3                   states, and nation states are not effective in  
4                   dealing with transnational organized crime.  
5                   That's a huge issue. As soon as an individual  
6                   or money crosses an international border, it  
7                   become infinitely more difficult to deal with  
8                   it. And nation states have domestic law, and  
9                   unless you fit within the domestic law, you've  
10                  got a problem. There is no overarching  
11                  international law that deals with criminal  
12                  matters.

13                Q     And just tying into your report as well, your  
14                  reports speak about some of the resource  
15                  challenges that the RCMP encounters, so really  
16                  at the end of the day a public registry provides  
17                  more eyes on the actors and the movement of  
18                  money. Wouldn't that at least help to some  
19                  degree to alleviate some of those resource  
20                  concerns?

21                A     I would agree, yes.

22                Q     And in terms of --

23                A     I'm sorry. May I just add to that? Not only  
24                  resource concerns. It would also reduce the  
25                  amount of time involved from a process

1 perspective, which I think obviously relates to  
2 human resources, but it's time as well would be  
3 saved infinitely in terms of mutual legal  
4 assistance treaties and so forth. So there's a  
5 whole lot of ripple effects for law enforcement.

6 Q Right. And I appreciate your evidence yesterday  
7 was that there was some caveats to your support  
8 for a public registry and I think you've alluded  
9 to the privacy concerns. I'm wondering in your  
10 research did you cross the UK corporate  
11 beneficial ownership registry?

12 A Yes. So we have to appreciate that when I was  
13 doing this report, if we're talking September  
14 2018, the company house registry in the UK, I  
15 think the legislation if I'm not mistaken was  
16 2017, so very, very, new. I just can't recall  
17 today the state of implementation. I know that  
18 they've had a lot of discussion, a lot of debate  
19 and I think some changes or add-ons to their  
20 registry. I'm not an expert on it, but I  
21 certainly did look at, through public sources,  
22 what was taking place in the United Kingdom at  
23 the time.

24 Q Right. You're familiar with that registry, with  
25 the PSC UK registry?

1           A     Yeah, from public source, public source  
2                    familiarity, correct.

3           Q     Right. And some of the privacy protections or  
4                    protections they have are carve out mechanism,  
5                    as I believe my friend for the BC Civil  
6                    Liberties Association just alluded to in her  
7                    questioning. Also a tiered system. And my  
8                    question is, I guess, in your opinion would  
9                    these represent a proportionate manner to kind  
10                   of balance privacy interests as well as the  
11                   purpose of the registry?

12          A     I'm not personally familiar with what's been  
13                    carved out or the tier system. And I fully  
14                    appreciate that the UK is going through a  
15                    learning process. But fortunately we can learn  
16                    from their learning process, as will other  
17                    countries, because we are seeing beneficial  
18                    ownership registries starting elsewhere. I  
19                    believe Australia and United States is now  
20                    talking about it. So Canada has the opportunity  
21                    to learn from that. If, as you say, they have  
22                    carved-outs and tiers, that would certainly be  
23                    valuable to look at.

24          Q     Right. And you mentioned as well in your  
25                    evidence yesterday about garbage in, garbage out

1           in terms of verification and validation of  
2           information. That's something that the UK  
3           struggled with. Are you aware of that?

4           A    I am. And I didn't mean that to be a legal  
5           term. That is my lay perspective on it.  
6           Garbage in, garbage out.

7           Q    Yeah, I think it's in the literature as well.  
8           But I suppose you would agree that it would be  
9           prudent for BC and Canada to apply the lessons  
10          learned from the UK in formulating the mechanics  
11          of their beneficial ownership registries; right?

12          A    Very much so.

13          Q    Yeah. So changing topics a little bit. I note  
14          in your first report there's -- and I can take  
15          you there if you like, but there's a reference  
16          to a discussion with senior executives of the  
17          VPD in which they advise that we have not  
18          scratched the surface of money laundering in  
19          Vancouver and that the casino money laundering  
20          operation is a drop in the bucket compared to  
21          what's actually taking place?

22          A    I recall that.

23          Q    Yeah. Do you agree with that statement?

24          A    Yes. Casinos is one aspect of this and right  
25          now the question is where is the money going



1 international money laundering to  
2 highlight elements that could be relevant  
3 in BC."

4 Do you recall that?

5 A Yes.

6 Q I see you nodding your head. So that's pretty  
7 open-ended. If you come across anything, please  
8 advise. That's how I interpret that.

9 A Yes. I was happy to look at other areas,  
10 recognizing that most of our emphasis was on  
11 real estate, luxury cars and horses, but I  
12 looked at MSBs, I looked at crypto, I looked at  
13 a whole number of different areas in a brief  
14 fashion.

15 Q Did you ever come across tax evasion or large  
16 scale international tax evasion schemes?

17 A Tax evasion is not one that I discussed, but I  
18 do refer to tax evasion, I believe, in both the  
19 first and the second report in terms of the  
20 underground economy. But that's a domestic tax  
21 evasion. And we know that there's a huge  
22 domestic underground economy which tends to be  
23 cash based, and we also know that the proceeds  
24 of that -- of tax evasion are -- does constitute  
25 money laundering. So tax evasion is a predicate

1                   offence for money laundering. So it is very  
2                   relevant. I did not spend any time on  
3                   international tax evasion. I may have referred  
4                   to the Panama Papers and what we've seen  
5                   overseas, but it was only by way of explanatory  
6                   comments, I suppose.

7           Q       And I appreciate you probably felt that that was  
8                   outside the scope of your report.

9           A       Well, probably outside the scope of the time  
10                  frame with anything else. I mean, it's no  
11                  different than anything else. This is such a  
12                  huge area you could spend a lifetime working on  
13                  it.

14          Q       I appreciate that. Did you speak with the CRA  
15                  or any CRA investigators when you were preparing  
16                  these reports?

17          A       No. I used to actually run a unit called --  
18                  sorry, a special project unit with the RCMP  
19                  which was both tax and RCMP and we had  
20                  secondments from tax with us. I am quite  
21                  familiar with the restrictions in place for the  
22                  tax authorities, so I did not go there on either  
23                  of the reports because I know how limited their  
24                  ability is to share information other than  
25                  provisions that you find in the *Income Tax Act*.

1           Q     Similarly there's evidence in the first report,  
2                   I believe it is, about the role financial  
3                   institutions play in Canada's AML regime and I  
4                   think at one point you actually described them  
5                   as the most important conduit for money  
6                   laundering. I could take you to the reference,  
7                   but I wonder if you recall.

8           A     Financial institutions, if we're talking banks  
9                   and credit units, everybody banks there.  
10                  That's -- we all have accounts. And so it is  
11                  critical. And that was the focus of FINTRAC and  
12                  the proceeds of crime legislation in the early  
13                  days was to clamp down on abuses in that area.  
14                  And we're not seeing the boxes of cash and we're  
15                  not seeing the bags of cash coming into banks,  
16                  which quite frankly we did see prior to the 2000  
17                  era. We had a particular case right here in  
18                  British Columbia with a smaller bank. So those  
19                  issues seem to have been curbed to a large  
20                  degree thanks to the proceeds of crime  
21                  legislation. It's a long way of answering your  
22                  question to say that financial institutions are  
23                  absolutely critical in this because they are  
24                  conduits for money. And a lot of these other  
25                  businesses and reporting entities feed into



1                   them.

2           Q       I wonder, though, in your research you must have  
3                   seen that billions of dollars in fines have been  
4                   levied against large financial institutions  
5                   across the world in the last 20 years, 15 years,  
6                   for breaching AML regimes and otherwise  
7                   participating or enabling money laundering?

8           A       Yes, I'm aware of that.

9           Q       Including banks that have a presence in Canada?

10          A       That's correct.

11          Q       Yeah. And I saw in your first report that  
12                   there's reference in the appendix to a meeting  
13                   with two investigators from TD. Did you reach  
14                   out to any other Canadian banks in drafting  
15                   these reports?

16          A       No. Again, my focus wasn't on banks. It was on  
17                   casinos in the first report. And I do recall  
18                   speaking to investigators for TD, and I'm trying  
19                   to recall the exact context for it, but it was  
20                   to assist me with the report. It wasn't a  
21                   matter of -- I wasn't reviewing compliance by  
22                   banks by any means.

23          Q       Right.

24          A       It was in the context of my report or my review.

25          Q       And similarly, I mean, you referenced the broad

1 terms of reference in the second report, but  
2 that was outside of the scope of that report as  
3 well; right?

4 A Yes. I mean, it's a broad scope, so I suppose I  
5 could have gone there. I didn't go there, no.

6 Q Are these issues tax evasion in the role of  
7 financial institutions something to your view  
8 that could use further research?

9 A I think all issues can always use further  
10 research. Again, putting an eye on these topics  
11 is important. I think we've come a long way in  
12 this country when you talk about financial  
13 institutions. We're not seeing the crass money  
14 laundering that we saw, as I said, 30 years ago,  
15 25 years ago. But, you know, you do highlight  
16 that there have been sophisticated money  
17 laundering cases and banks have been fined in  
18 the United States and elsewhere, huge fines. So  
19 definitely there are issues to look at. I  
20 support researching this entire area.

21 MR. RAUCH-DAVIS: Thank you, sir. Those are my  
22 questions.

23 THE WITNESS: Thank you.

24 THE COMMISSIONER: Thank you, Mr. Rauch-Davis.

25 I'll turn now to Mr. Butcher on behalf of

1 Brad Desmarais, who has been allocated  
2 30 minutes

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

4 **EXAMINATION BY MR. BUTCHER:**

5 Q Mr. German, I'm going to start with a question  
6 that relates to the role of lawyers before I get  
7 to Mr. Desmarais. Are you aware that lawyers  
8 are required to report all cash receipts over  
9 \$7,500 to the Law Society on their annual trust  
10 report each year?

11 A Yes.

12 Q And are you aware that the Law Society usually  
13 follows up if there's an indication that there  
14 was a receipt of cash?

15 A I don't know the followup process. I wouldn't  
16 be surprised. I don't know.

17 Q So there is -- assuming that's true, there is an  
18 independent reporting of the receipt of cash?

19 A Well, I don't see the Law Society as necessarily  
20 a third party reporting in the context that I  
21 have been discussing or what you see in the  
22 United Kingdom. The Law Society is a  
23 professional body. It represents in many ways  
24 the lawyers in this province and it does a good  
25 job of it. But in terms of whether it's trust

1 accounts or whether it's cash reporting, I  
2 really do see the benefit of reporting to a  
3 third party entity other than Law Society.

4 Q You understand, of course, that the Law  
5 Society's primary interest is to protect the  
6 public interest?

7 A Yes.

8 Q I'm now going to turn to Mr. Desmarais. You  
9 told Mr. Smart yesterday that knowledge of money  
10 laundering and strategies to deal with it have  
11 evolved significantly in the last decade. Do  
12 you remember that?

13 A Yes, I remember the question and answer.

14 Q I take it as a followup to that that it's  
15 important to not measure the steps taken six or  
16 eight years ago by today's standards or today's  
17 knowledge.

18 A Well, I think if I'm not mistaken in my answer  
19 yesterday I also spoke about the fact that the  
20 regime that we're operating under now has  
21 existed since 2000, the proceeds of crime money  
22 laundering act. So it's not as if things just  
23 happened, you know, a couple of years ago. The  
24 requirement that casinos report, whether it's  
25 large cash transactions, suspicious

1 transactions, casino disbursement reports, that  
2 has been with us for many years.

3 Q Okay. So --

4 A [Indiscernible].

5 Q That it's not just the regulatory regime I'm  
6 interested in. And there's a clear example in  
7 this case and in your report. You make  
8 reference in chapter 20 to the knowledge that  
9 was gained by the RCMP as a result of E-Pirate;  
10 correct?

11 A Correct.

12 Q And that sort of knowledge was not available in  
13 2013, 2014, 2015?

14 A You mean it wasn't available to the RCMP?

15 Q I mean that the RCMP had not conducted the  
16 investigation and learned the things that they  
17 learned in E-Pirate to that point.

18 A Oh, I agree with you. The RCMP were not present  
19 in the casino world in 2013, 2014.

20 Q And so it's not appropriate to assess the steps  
21 taken in light of the information that's  
22 gathered later in a subsequent investigation?

23 A I'm not too sure I understand the question.

24 Q The question is simply this: your chapter 20, I  
25 think is, entitled "Case Closed." It's apparent

1                   that the RCMP learned a lot of information as a  
2                   result of the E-Pirate investigation.

3           A       Yes. I think that's fair.

4           Q       That -- the specifics of that information or  
5                   that investigation were not known to anybody  
6                   until 2017 or 2018; is that fair?

7           A       You mean when my report came out? Is that what  
8                   you're referring to?

9           Q       Whenever E-Pirate finished its investigation.

10          A       I'm not trying to be difficult. I'm just trying  
11                   to understand what you're getting at. The RCMP,  
12                   I would agree with you, were not present in the  
13                   casino world in the years prior to 2015. Now,  
14                   could overtures have been made to the RCMP in  
15                   those years to other units of the RCMP?  
16                   Certainly Richmond detachment was in touch with  
17                   the Great Canadian. We know that. They were  
18                   talking about initiatives. But if you're  
19                   talking specifically about the E-Pirate and the  
20                   knowledge gained in terms of E-Pirate, yes, I  
21                   believe the RCMP learned that as of 2015 when  
22                   they started their investigation. But you  
23                   really need to ask them what they knew before  
24                   and what they didn't. I don't know.

25          Q       All right. Let's go, please, to exhibit 832,

1                   your report page 136 and 137.

2                   MR. BUTCHER: All of my questions, Mr. Hira, will be  
3                   relating to report number 1.

4                   MR. R.R. HIRA: Thank you.

5                   MR. BUTCHER:

6                   Q     If you can go, please, to paragraph 574 on  
7                   page 136 through to 137. It's fair to say that  
8                   the details that are set out in that report were  
9                   first provided to you by the RCMP in 2018.  
10                  That's the source of the information contained  
11                  in those paragraphs?

12                  A     Yes. Correct.

13                  Q     And that is information that is much more  
14                  detailed and much more specific than was known  
15                  to the people involved in attempting to manage  
16                  AML in 2013, 2014 and 2015.

17                  A     Well, this was more -- just from reading this, I  
18                  would say this is more that the RCMP -- than the  
19                  RCMP knew before because they're indicating it's  
20                  as a result of evidence gathered in those  
21                  investigations. So they obviously learned or  
22                  they've obtained evidence in those  
23                  investigations which have assisted them.

24                  Q     And it actually assisted you in your report as  
25                  well?

1           A     Oh, definitely. I felt this was a critical  
2                    aspect. As I mentioned yesterday, because  
3                    everyone raises the issue well, there's no proof  
4                    of predicate offences, and as a result of the  
5                    information from the RCMP, I was satisfied that  
6                    that missing link, so to speak, was covered off  
7                    quite nicely in this material as well as the  
8                    charts.

9           Q     And even that information did not have the  
10                   opportunity to withstand the process of a  
11                   criminal trial?

12          A     That's correct.

13          Q     I take it from your police experience you'll  
14                   agree that detached after the fact hindsight is  
15                   always much clearer than the perceptions of  
16                   people involved in problem management at the  
17                   time?

18          A     I would agree with that.

19          Q     With respect to a couple of the individuals at  
20                   BCLC, you met Mr. Desmarais and Mr. Lightbody, I  
21                   believe it's on November 1st, 2017 -- I could be  
22                   wrong about the date -- for an hour and a  
23                   quarter?

24          A     That could very well be the day, and yes, we did  
25                   meet.



1           Q     That's the only time you met with those two  
2                   gentlemen?

3           A     Well, there were three gentlemen that I met with  
4                   originally.  If that's the meeting we're talking  
5                   about, Lightbody, Kroeker and Desmarais.  I  
6                   had -- I met with Lightbody virtually later and  
7                   had a number of emails and telephone calls with  
8                   him over the intervening period.  Mr. Kroeker  
9                   was really our contact point at BCLC, and he  
10                  offered to be the contact point right from the  
11                  beginning, and that was really appreciated.  He  
12                  gave us access and so forth.  And he was in  
13                  charge of compliance, so it made sense.  In  
14                  terms of Mr. Desmarais, he was present at  
15                  another larger meeting that I held with respect  
16                  to the SAS computer system, and -- but  
17                  Mr. Desmarais was no longer the compliance  
18                  officer.  He had already moved on, I believe, to  
19                  chief operating officer or onto another role  
20                  within the organization, so our main contact was  
21                  Mr. Kroeker and people in his office.

22          Q     Okay.  When undertaking your review, it's very  
23                  clear that your intention was to remain  
24                  strategic, to not get mired down in specific  
25                  incidents or details and not to conduct an

1 investigation. Is that fair?

2 A I think it's fair -- if I -- certainly I was not  
3 conducting an investigation. It was a review.  
4 We definitely, you know, went into the detail in  
5 certain areas. You had to. But on the other  
6 hand I also had to produce a report that looked  
7 at the big picture and that's what I attempted  
8 to do.

9 Q Those aren't my words, Mr. German; they're yours  
10 from paragraph 37. I can read it to you.  
11 Paragraph 37 of your report. I think --

12 A [Indiscernible].

13 Q "... I have attempted to be as  
14 comprehensive in my approach to the issues  
15 as possible, recognizing always the  
16 importance of remaining strategic and not  
17 becoming mired down by specific incidents  
18 or details unless they were relevant to  
19 the bigger picture."

20 That's the --

21 A Exactly.

22 Q I take it that your methodology involved  
23 conducting interviews of the stakeholders,  
24 conducting some literature reviews and you place  
25 some reliance on your general knowledge and

1                   experience in the area.

2           A       Well, you're summarizing, you know, a lot of  
3                   time and work. I'm not disagreeing with you.  
4                   Certainly I brought my personal background.  
5                   There were 160 some interviews. There were  
6                   literally hundreds of thousands of documents,  
7                   emails that we reviewed. So a number of  
8                   different sources of information.

9           Q       And I read from the report that you involved  
10                   Jerome Malysh, Keith Perrin, Doug LePard and  
11                   Clinton Pecknold in this report, but I have this  
12                   question about Michael Blanchflower and Trevor  
13                   Dusterhoft. You told us yesterday they worked  
14                   on tip files what were they?

15          A       Just to be clear, we're talking about the second  
16                   report now. Jerome Malysh was with me on the  
17                   first report and I think I described his  
18                   involvement with the -- as a forensic accountant  
19                   helping me on the first report. In terms of the  
20                   second report, the topic areas were so broad in  
21                   terms of real estate, luxury cars, horse racing  
22                   and then looking at other areas that I felt I  
23                   really had to put a team together to deal with  
24                   this. As part of that second report, the  
25                   province set up a tip line. And there were

1                   actually two tip lines because --

2           Q       Oh, now I understand. It has nothing to do with  
3                   the RCMP major case management model; it has to  
4                   do with information being received by other  
5                   people -- from members of the public.

6           A       I know exactly what you're referring to. The  
7                   old tip method of filing reports in criminal  
8                   cases. No, we're not talking that. We're  
9                   talking an actual tip line that the province put  
10                  together. There were two tip lines. One for  
11                  part 2 of my second review and one for Maureen  
12                  Maloney's report, which was running parallel to  
13                  my second. And we received many, many, many  
14                  tips on that tip line and so certain of those  
15                  individuals fielded those tips for me.

16          Q       So I want to turn quickly now to the subject of  
17                  context and quantification. In paragraph 803 of  
18                  your report you correctly state that there are  
19                  many legitimate reasons why people can possess  
20                  large amounts of cash; correct?

21          A       Correct.

22          Q       And you've told us that it's very difficult or  
23                  perhaps even impossible to quantify how much of  
24                  the cash being processed through the casinos was  
25                  the proceeds of crime?

1           A     It's extremely difficult.

2           Q     And indeed the previous lawyer made reference to  
3                 a comment made to you, I think it must have been  
4                 by Deputy Chief Rankin and Superintendent  
5                 Porteous from the Vancouver police that the  
6                 money that was being laundered in casinos was a  
7                 drop in the bucket in comparison with what was  
8                 going on elsewhere in the community?

9           A     Yes, I recall that comment by them, and I can  
10                understand it.

11          Q     Because of time I'm going to go to move on just  
12                a moment to this issue of the powers of Special  
13                Constables. And that's dealt with in chapter 10  
14                of your report. And that's at page 79. If that  
15                can be brought up, please. And actually I want  
16                to go to paragraph 315. You say in  
17                paragraph 315:

18                         "The status of a Special Provincial  
19                         Constable is a significant adjunct to the  
20                         powers provided for in the GCA. However,  
21                         the authority of a Special Provincial  
22                         Constable is circumscribed by any  
23                         restrictions specified in the  
24                         appointment."

25           Do you see that?

1 A I do.

2 Q And this part of your report is more or less cut  
3 and pasted from your December 26 opinion to BCLC  
4 and GPEB?

5 A It could very well be that some paragraphs are  
6 very similar, correct.

7 Q Well, they're identical, in fact.

8 A Okay, that's fair.

9 Q Did you ever ask for a copy of the Special  
10 Constables appointments for the GPEB  
11 investigators?

12 A I -- I did review material with respect to the  
13 Special Provincial Constable appointments. I  
14 just don't recall today what specifically I  
15 looked at. And as you can see, you know, also  
16 this issue about the extent of their  
17 responsibility comes up in this *Semeniuk* case in  
18 the BC Court of Appeal. It's a topic that was  
19 raised repeatedly by GPEB, the fact that, you  
20 know, the extent of their authority and also,  
21 you know, it would come up from BCLC people the  
22 nature of the authority that GPEB had, so I see  
23 a number of documents. I don't recall  
24 specifically one now.

25 Q The GPEB complaint you heard often was that they

1                   didn't have sufficient powers to conduct  
2                   *Criminal Code* investigations; is that fair?

3           A       Probably the one I heard the most was that they  
4                   do not have the authority to undertake money  
5                   laundering investigations, and I believe that  
6                   was also the BCLC view, is that it just was not  
7                   part of their remit under the statute.

8           MR. BUTCHER:   If we could please have exhibit 709  
9                   pulled up.

10          THE REGISTRAR:   Sorry.   Just give me a moment.

11          MR. BUTCHER:   And if we could go down, keep scrolling  
12                   down Madam Registrar, please.   This -- there are  
13                   actually two individual appointments marked in  
14                   this exhibit, and if we can go to the last page.

15          Q       And a blank appointment apparently already  
16                   signed by the Deputy Solicitor General.   If you  
17                   look at the last sentence of this appointment,  
18                   it says very clearly:

19                                "For this purpose only the appointee is  
20                                empowered to enforce the following  
21                                enactments to the extent necessary:  
22                                a) *Criminal Code of Canada*; b) provincial  
23                                statutes of British Columbia."

24                   Do you see that?

25          A       I do.

1 Q Have you seen this document before?

2 A I don't know what date this document -- I see  
3 2023 is the end date.

4 Q Okay. Then let's go up a page or two. This is  
5 Mr. Ackles. We've heard from him at this  
6 commission. That's dated May 14th, 2013.

7 A Yes.

8 Q Did you see any of these appointment letters  
9 before writing your report?

10 A I may have. I just don't have the active  
11 recollection of it, but I may very well have  
12 because I do know that I looked at material with  
13 respect to the Special Provincial Constables.

14 Q Yes. You set that out in your report, but you  
15 don't make a reference to the actual  
16 appointments. The appointments are the source  
17 of the officer's jurisdiction, aren't they?

18 A Yes.

19 Q And it's clear from this document that they did  
20 have powers respecting the *Criminal Code of*  
21 *Canada* provided there was a nexus between the  
22 code offences being conducted -- or being  
23 committed or investigated and gaming?

24 A That was my understanding, correct.

25 Q And so there was nothing, for example, stopping



1 GPEB investigators from, say, inquiring of  
2 patrons about source of funds, was there?

3 A In my opinion, no, there was not.

4 Q I'm going to go back now to a slightly different  
5 subject area, that of transnational organized  
6 crime. The RCMP adopt a definition that is now  
7 found in section 467.1 of the *Criminal Code* for  
8 a definition of organized crime; correct?

9 A That's correct.

10 Q And that definition, to summarize it, is three  
11 or more persons in or outside of Canada that has  
12 as one of its main purposes the facilitation or  
13 commission of one or more serious offences that  
14 would likely result in material benefit;  
15 correct?

16 A I accept that as given, yes.

17 Q If we can go to page 32 -- sorry, back to your  
18 report, Mr. German. On page 32 in paragraph 90  
19 with respect to organized crime you say that  
20 they can infiltration politicians,  
21 bureaucracies, revolutionary groups, terror  
22 networks and so on. There's no evidence that  
23 you found of that happening in British Columbia,  
24 is there?

25 A With one caveat, if I may. My answer would be

1 correct. But I was not conducting a criminal  
2 investigation, so I was not looking for  
3 corruption. I do recall that the issue of money  
4 going to a terror organization was raised by the  
5 RCMP in 2015 in the E-Pirate. And that is in  
6 the correspondence between GPEB and BCLC because  
7 there was great concern, and I believe it went  
8 from -- and Mr. Alderson was speaking with  
9 somebody at the RCMP. It could have been  
10 Mr. Chrustie. I don't recall specifically. But  
11 there was reference to money for terrorist  
12 purposes. That went up the chain in BCLC, I  
13 think to Mr. Lightbody. I think that has since  
14 been discounted by Mr. Chrustie and the RCMP,  
15 that that was not the case, but again, I don't  
16 know that conclusively, but it was raised. But  
17 if you're talking more generally, I was not  
18 looking for corruption, I was not looking for  
19 terrorism; I didn't come upon it.

20 Q You were asked some questions about your  
21 experience in Asia, and it's apparent from  
22 paragraph 100 that you've got a general  
23 understanding of the economic boom in the south  
24 of Mainland China.

25 A Yes.

1 Q And there's a vast amount of money being made in  
2 manufacturing and technological industries in  
3 that area today?

4 A Yes.

5 Q And I think you even note that there's  
6 100 million people living in a -- within the  
7 area bound by Macao Guangzhou and Hong Kong.

8 A Correct.

9 Q Paragraph 101 relates to some -- or contains a  
10 reference to triads. Did you hear of any  
11 reference to triad involvement in any of the  
12 casino issues?

13 A Well, the issue of triad involvement in  
14 Vancouver goes back -- there's been mention of  
15 it for many years and the involvement of  
16 organized crime with loan sharking in the early  
17 days. Now, the organization that comes up the  
18 most are the Big Circle Boys in the discussion.  
19 Well, I tried --

20 Q I'm going to interrupt you, Mr. German, not  
21 because I want to be rude, but because I've got  
22 a finite amount of time.

23 A Oh, I'm sorry, I'm sorry.

24 Q Did you ever see any reference to triad  
25 operations in BC casinos in the work that you

1 did?

2 A No. But I'm not -- I wasn't looking for triads.  
3 Like, I mean, that wasn't the focus. I was not  
4 conducting a criminal investigation.

5 Q Now, you've devoted a number of paragraphs to  
6 underground banking and you've clearly got an  
7 understanding of the concept of traditional  
8 financial systems. Is that fair?

9 A I have a lay understanding of it. Some  
10 experience, I suppose.

11 Q And at footnote 12 on page 36 you make reference  
12 to a paper by somebody called Leonides  
13 Buencamino and Sergei Gorbunov that's published  
14 in a United Nations related organization. Do  
15 you remember reading that paper when you were  
16 doing your work?

17 A Yes. I have looked at that.

18 Q And you do mention some systems in your report  
19 in paragraph 116, hawala, hundi and chit and  
20 chop, but you do not mention another underground  
21 banking system called *fei chien* or flying money?

22 A No. I am not -- I have mentioned a couple, and  
23 in fact I think these are the ones that I  
24 mention in my proceeds of crime book as well.  
25 There could be any number of them depending on

1 country, ethnicity and so forth.

2 Q And I'm just going to read you something from  
3 the conclusion to that report that you footnote  
4 and see if you agree with it:

5 "Informal money transfer systems were  
6 developed centuries ago to facilitate the  
7 movement of money over long distances.  
8 Today, they remain in use and operate  
9 alongside the conventional financial  
10 sector. They attract customers because of  
11 their simplicity, efficiency, reliability  
12 and low cost relative to most other  
13 available options."

14 Do you agree with that comment?

15 A And that is essentially what I say in 117.

16 Q And just one other quote:

17 "It is recognized that due to significant  
18 cultural, social and economic factors the  
19 informal money transfer systems will  
20 continue to be an important element of  
21 international finance and that attempts to  
22 eliminate these systems would be  
23 counterproductive, if not impossible."

24 Do you agree with that?

25 A Well, the thing about informal banking systems

1 is that they are not regulated. And we have  
2 bank regulation in this country. We're talking  
3 about in war ravaged countries. In countries  
4 with underdeveloped banking systems there is a  
5 role for underground banking. And I try to  
6 indicate in this part that all underground  
7 bankers are not necessarily criminals. I'm not  
8 suggesting that for a minute. In certain areas  
9 they provide a resource that is not possible  
10 elsewhere.

11 Q So, Doctor, the question was whether or not you  
12 agreed with the statement. And I'll read it  
13 again to you quickly:

14 "It is recognized due to significant  
15 cultural, social and economic factors the  
16 informal money transfer systems will  
17 continue to be an important element of  
18 international finance and that attempts to  
19 eliminate these systems would be  
20 counterproductive, if not impossible."

21 Do you agree with that?

22 A In part. I do believe that in our system in  
23 Canada we -- parliament has said banking is to  
24 be regulated. Will it continue and should it  
25 continue in some countries? Yes.

1 Q And it will continue wherever there are migrants  
2 from those countries; fair?

3 A I don't know about "wherever," but that is --  
4 it's certainly underground systems can benefit  
5 people in countries that have underdeveloped  
6 financial -- or systems that are not accessible,  
7 banking systems that are not accessible to the  
8 poor.

9 Q Or whether a currency restriction is for the  
10 rich?

11 A Well, that's what we see here. And exactly.  
12 And, you know, essentially subverting currency  
13 rules in one country which may not be an offence  
14 here, but as we can see it gave rise to the  
15 Vancouver model and the laundering of drug  
16 proceeds at this end.

17 Q In paragraph 180 on page 51 of your report you  
18 provide a definition of a loan shark as being  
19 somebody who charges more than the criminal rate  
20 of interest; correct?

21 A Sorry, what paragraph, sir?

22 Q 180.

23 A I take the definition there from the FATF. I  
24 quote that.

25 Q And during your review of the cash facilitators

1           involved at the casinos, did you ever come  
2           across any evidence that somebody was charging  
3           more than 60 percent per annum?

4           A     I do not know, nor do I think we know as a  
5           society what the percentage was that was being  
6           taken at both ends. That gets back to the  
7           Vancouver model, quite frankly and could be your  
8           ticket at both ends. People at both ends --

9           Q     Again, the question was did you come across any  
10          evidence that somebody was charging that kind of  
11          usurious interest rate?

12          A     I wasn't looking for evidence. Mine was not a  
13          criminal investigation. I was trying to  
14          understand what was taking place. I was not --

15          Q     Nobody told you that people were charging a  
16          criminal interest rate?

17          A     I would have to look at what the RCMP briefing  
18          note says, but I'm not aware of that as we speak  
19          that someone told me there was a usurious, you  
20          know, interest rate, correct.

21          Q     I want to ask you a couple of quick questions  
22          about information sharing.

23          MR. MARTLAND: Just before Mr. Butcher does that,  
24          Mr. Commissioner, I will alert him that he's at  
25          his time, so I would underline the word "quick."



1 MR. BUTCHER: If I have 10 more minutes, please.

2 THE COMMISSIONER: All right, Mr. Butcher.

3 MR. BUTCHER:

4 Q You've made reference in paragraph 535A and B to  
5 a spreadsheet produced by GPEB. That  
6 spreadsheet has been reviewed in evidence before  
7 the commission. Do you know what I'm referring  
8 to?

9 A I'm just waiting for 535 to come up. If you're  
10 referring to the 2015 spreadsheet I know what  
11 you're referring to.

12 Q Yes. Would you agree that it would have been  
13 helpful to BCLC if that spreadsheet could have  
14 been shared with them so they could assist in  
15 identifying and taking regulatory steps against  
16 the people who were mentioned in that report?

17 A The GPEB spreadsheet, I'm not aware whether it  
18 was or it wasn't shared. At least today I'm not  
19 aware. I may have been aware at one time.

20 Q Again the question wasn't whether you were aware  
21 of it or not. The question was whether you  
22 think it would have been helpful for them to  
23 share that information with BCLC so that BCLC  
24 could respond and take appropriate regulatory  
25 measures.

1           A     The answer is yes, it would be helpful, and my  
2                    understanding is that Mr. Alderson did speak  
3                    with Mr. Meilleur about it. I don't know if the  
4                    actual spreadsheet was exchanged or not.

5           Q     I have one question about your recommendation  
6                    with respect to a designated policing unit. I  
7                    wonder if you can tell us in one paragraph why  
8                    you say that would be the best form of policing  
9                    issues arising out of gaming?

10          A     Thank you for that question, sir. I'm probably  
11                    the last person to suggest starting up a new  
12                    police force coming from my policing background  
13                    from the RCMP and so forth. But as I got into  
14                    this and having looked at Nevada and they have a  
15                    discrete police force for the casinos that works  
16                    very well. I looked at the Ontario model where  
17                    the OPP have been involved in gaming, liquor,  
18                    horse racing and now cannabis for years. It  
19                    seems to work quite nicely. And we have an  
20                    example here in this province with the transit  
21                    police which has an area carved out for it that  
22                    is interjurisdictional. By having a discrete  
23                    casino police force here, I think it would  
24                    provide the same benefits that you see in Nevada  
25                    and in Ontario, different models but the same

1                   benefits. Because the other part of it is if  
2                   they don't, if we don't create a police force  
3                   for that purpose, who is going to take care of  
4                   what takes place in the casinos? And we have  
5                   [indiscernible] model right now which is looking  
6                   at both illegal and legal, but, again, the legal  
7                   side of it has been tied up for years with one  
8                   investigation. Primarily. So I'm not too sure  
9                   what has really changed and that's why I felt  
10                  this was the way to go. The local police  
11                  detachments and municipal police can't deal with  
12                  that.

13                Q    And that's simply because they've got too many  
14                    other priorities?

15                A    Correct.

16                Q    One last area. I heard you say a number of  
17                    times and indeed there are things that have been  
18                    said by other witnesses with police backgrounds  
19                    about the impediments to efficient law  
20                    enforcement in money laundering, and I'm just  
21                    going to go through some of the ones that you've  
22                    mentioned and confirm that you agree with it.

23                                The first is the constitutional obligation  
24                                to provide full disclosure to defence arising  
25                                out of *Stinchcombe* in 1991. That's an

1                   impediment that you've mentioned; correct?

2           A       Well, not quite in the same terminology.  Where  
3                   *Stinchcombe* has gone, in my respectful opinion,  
4                   has led to a lot of issues for the police.  And  
5                   it's a case of -- we don't have criminal  
6                   disclosure rules in this country.  I think that  
7                   would be helpful.  And outlining -- much like we  
8                   have civil rules so that it is very clear the  
9                   extent of disclosure.  It is a problem for  
10                  financial investigators.

11          Q       No, I understand that.  But it's something that  
12                  the police had to learn to live with for  
13                  30 years now?

14          A       Well, yes.  Correct.

15          Q       The second impediment that you mentioned, second  
16                  legal impediment that you mentioned was  
17                  constitutional right guaranteed by sections 7  
18                  and 8 of the charter against self-incrimination  
19                  that was described in the Supreme Court of  
20                  Canada case in *Jarvis* and *Ling* in 2002; correct?

21          A       I pointed that -- I pointed out the issue  
22                  between regulatory and criminal, correct.

23          Q       The third was the constitutional right to a  
24                  trial without delay guaranteed by section 11(b)  
25                  of the charter as set out in *Jordan* in 2015?

1           A     Correct. *Jordan* has narrowed the time frame for  
2                   these investigations.

3           Q     You also mentioned that FINTRAC is not an  
4                   investigative body and that in of itself is an  
5                   impediment?

6           A     No, I'm not so focused on it being an  
7                   investigative body. My concern is that law  
8                   enforcement is not able to access the  
9                   information in FINTRAC. And the other thing I  
10                  pointed out with FINTRAC were delays in terms of  
11                  obtaining the information that police require  
12                  for their investigations.

13          Q     And you also mention the fact that our  
14                  sentencing regime is apparently, you say, more  
15                  lenient than that in the US is also an  
16                  impediment?

17          A     Yes, but I also pointed out that there are a lot  
18                  of impediments before we even get there. And  
19                  I'm not advocating, if I may put it that way, an  
20                  American sentencing regime. My concern is more  
21                  in that investigative stage.

22          Q     And you also mentioned that another impediment  
23                  might be the fact that Canadian prosecutors are  
24                  entirely independent from the police  
25                  investigators?

1           A     I pointed out the fact that there is a different  
2                    perspective in the United States among  
3                    prosecutors than there is here. I'm not saying  
4                    one is better than the other. I'm simply saying  
5                    that there is a difference. And that does  
6                    impact on how prosecutors interact with police.  
7                    Here the closest model we've got is a special  
8                    prosecutor system in this province to what you  
9                    see in the United States.

10          Q     The last case that seemed to raise a problem or  
11                    an impediment for you was the Federation of Law  
12                    Societies case that protected the privilege of  
13                    client file materials in lawyers' offices;  
14                    correct?

15          A     Well, I hope I've made it clear, sir, that I  
16                    agree with the importance of solicitor-client  
17                    privilege. That's not the issue. I have  
18                    pointed out that Mr. Justice Cromwell in that  
19                    decision did leave it open to the federal  
20                    government to look at what I term a workaround  
21                    in order to meet for parliament to achieve its  
22                    objectives and yet not impact on  
23                    solicitor-client privilege. And I think much --  
24                    I think it would be very helpful if the federal  
25                    government could find that workaround, correct.

1           Q     So my last question is this: are you advocating  
2                   that any of those impediments be removed?

3           A     Well, I think -- look, this is not about the  
4                   charter. I fully accept that we've got a  
5                   charter and the charter protects all of us. But  
6                   within the scope of that I can come up with --  
7                   if you want to have that discussion, suggestions  
8                   on how we deal with these issues, and I mean, I  
9                   mentioned already with regard to *Stinchcombe*, I  
10                  think we can protect people, people's rights and  
11                  disclosure. I know what it was like at the time  
12                  pre-charter. In my days, in the early days when  
13                  I was representing people in provincial court, I  
14                  would get one piece of paper by way of  
15                  disclosure. I know what it used to be like. I  
16                  fully agree with disclosure. But I also think  
17                  that a way of dealing with this may well be to  
18                  have criminal rules of disclosure which take  
19                  what the courts have told us and put it in a  
20                  finite form so that police officers have  
21                  something very clear and that there's a  
22                  balancing to make sure that the rights of the  
23                  accused are protected and yet we also are able  
24                  to effectively conduct investigations. So I  
25                  could discuss each one of them. I -- we have a

1 charter and we're going to keep our charter.

2 Q And I'm sorry, I lied about that being my last  
3 question. I just want to follow up on one  
4 question about *Jordan*. You said that Jordan had  
5 narrowed the time frame for investigations. In  
6 fact what it's done is narrow the time frame for  
7 prosecutions and it doesn't -- no narrowing of  
8 the time frame for --

9 A You're quite correct. From the time from charge  
10 forward the clock is running, correct.

11 MR. BUTCHER: Thank you. Those are my questions.

12 THE COMMISSIONER: Thank you, Ms. Butcher. I'll now  
13 turn to Ms. Hughes on behalf of the province,  
14 who has been allocated 45 minutes.

15 MR. MARTLAND: Mr. Commissioner, I was just going to  
16 suggest it may make sense to check with  
17 Dr. German if he prefers -- Ms. Hughes is ready  
18 to go but whether he prefers a break before we  
19 do that or if we just carry on.

20 THE COMMISSIONER: I think it's probably a good idea  
21 to take a break in any event because as I  
22 continually try to remember and remind people,  
23 there are people behind the scenes who need  
24 breaks from time to time as well. So I think we  
25 will take a 10-minute, a relatively brief



1                   10-minute break for everyone's benefit. Thank  
2                   you.

3                   THE REGISTRAR: This hearing is adjourned for a  
4                   10-minute recess until 1:00 p.m.

5                   **(WITNESS STOOD DOWN)**

6                   **(PROCEEDINGS ADJOURNED AT 12:50 P.M.)**

7                   **(PROCEEDINGS RECONVENED AT 12:59 P.M.)**

8   **PETER GERMAN, a witness**  
9   **for the commission,**  
10    **recalled.**

11                   THE REGISTRAR: Thank you for waiting. The hearing  
12                   is resumed. Mr. Commissioner.

13                   THE COMMISSIONER: Thank you, Madam Registrar.

14    Yes, Ms. Hughes.

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

16                   **EXAMINATION BY MS. HUGHES:**

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

18                   A     I can, thank you.

19                   Q     Excellent. Thank you very much. The first  
20                   thing I'd like to ask you about arises from some  
21                   testimony you gave yesterday. You testified  
22                   yesterday that you received recently a letter  
23                   from government that indicated how many of the  
24                   recommendations from your first report had been  
25                   addressed. Do you recall giving that testimony?

1 A That's correct.

2 Q And if you could please, Madam Registrar, put up  
3 for the witness AMLDMC0077. Thank you.

4 Dr. German, what you should see in front of  
5 you is a letter dated February 22nd, 2021, from  
6 Doug Scott to yourself. Is this the letter that  
7 you were referring to yesterday?

8 A It is.

9 MR. MARTLAND: Mr. Commissioner, I didn't hear the  
10 answer to that clearly.

11 MS. HUGHES: Neither did I.

12 MR. MARTLAND: Thank you.

13 THE COMMISSIONER: Yeah, I wonder if there's a bit of  
14 unstable connection there, Mr. Hira.

15 MR. R.R. HIRA: I'm about to find out. Hopefully you  
16 heard me.

17 THE COMMISSIONER: I did. Yes, I hear you loud and  
18 clear.

19 MR. R.R. HIRA: And that's the problem between a  
20 barrister and a witness. If Dr. German could  
21 keep his voice up it would be appreciated. The  
22 mic is closest to him rather than to me, so  
23 it's --

24 THE WITNESS: The answer is yes, that is the letter.

25 MR. R.R. HIRA: Is that better?

1 THE COMMISSIONER: Yes, it is. Thank you.

2 MR. R.R. HIRA: Thank you.

3 MS. HUGHES: Thank you, Dr. German. And indeed in  
4 the second paragraph of the letter Mr. Scott  
5 writes that he's pleased to note:

6 "... that, to date, we have addressed 38,  
7 or 79 percent, of the 48 recommendations  
8 you made. We expect more recommendations  
9 will be addressed through legislation in  
10 the next year."

11 Do you see that?

12 A Yes, I do.

13 Q Does that refresh your memory as to how many of  
14 your recommendations from your first Dirty Money  
15 report government has addressed to date?

16 A Yeah, it does. I mentioned somewhere over 20.  
17 I wasn't sure of the number. But it says 38,  
18 and it uses the term "addressed" which I recall.  
19 So I don't know specifically what occurred, but  
20 I do agree it is 38, not a little over 20.

21 Q Thank you, Dr. German. And indeed you did not  
22 expect when you provided your reports to  
23 government that it would implement all of your  
24 recommendations verbatim, did you?

25 A I don't think I had any real expectations one

1                   way or the other. I was actually pleasantly  
2                   surprised that the Attorney General said that he  
3                   accepted all of the recommendations. But I'm  
4                   also a realist, that things don't happen  
5                   immediately and that there are greater minds  
6                   than mine that will obviously bear down on these  
7                   recommendations, so I wouldn't expect that they  
8                   would come out in the same form necessarily that  
9                   I had recommended.

10            Q     Right. You -- I think you've just indicated you  
11                   expected government would consider your  
12                   recommendations and perhaps do some further  
13                   analysis before moving forward with them; is  
14                   that fair?

15            A     You know, I don't want to make too fine a point  
16                   of it. I mean, the Attorney General said he  
17                   accepted the 48 recommendations, and so again,  
18                   people are going to look at them and they're  
19                   going to implement them, but it's obviously not  
20                   going to be word for word what I suggested.  
21                   There are no doubt other factors at play. So I  
22                   don't think we're disagreeing.

23            Q     Okay. And certainly perhaps putting it this  
24                   way: you understand, or you know, that  
25                   government establish the anti-money laundering

1                   secretariat and that that group has been working  
2                   on implementing these recommendations?

3           A        Yes, that's correct.

4           Q        Okay. Thank you.

5           MS. HUGHES: Thank you. Madam Registrar, perhaps we  
6                   should have, Mr. Commissioner, this letter  
7                   marked as the next exhibit.

8           THE COMMISSIONER: Yes, very well.

9           THE REGISTRAR: Exhibit 837, Mr. Commissioner.

10          THE COMMISSIONER: Thank you.

11                   **EXHIBIT 837: Letter from Douglas Scott to Peter**  
12                   **German - February 22, 2021**

13          MS. HUGHES: Thank you. And, Madam Registrar, I am  
14                   finished with that document.

15          Q        Thank you. And Dr. German, in terms of steps  
16                   that are being taken following your two reports,  
17                   you're aware that, for example, the Ministry of  
18                   Finance has moved forward with the land owner  
19                   transparency registry?

20          A        I'm aware of it, yes.

21          Q        Yes. And you're aware that similarly the  
22                   Ministry of Finance is engaged in ongoing  
23                   analysis and policy work towards a corporate  
24                   beneficial ownership registry?

25          A        Yes. And I don't want to take too much credit

1                   here because Maureen Maloney had an excellent  
2                   report which focused on the issue of real estate  
3                   and regulatory sectors, so I'm not suggesting  
4                   for a minute that the beneficial ownership  
5                   registry flows from my work.

6                   Q    Fair enough. Thank you for that caveat. And,  
7                   again, in the gaming sector, you know that  
8                   certain recommendations have already been  
9                   implemented and government is working towards  
10                  further addressing further recommendations by  
11                  way of upcoming legislative amendments to the  
12                  *Gaming Control Act*?

13                 A    I do know, and we just looked at it, that  
14                  numerous recommendations have been addressed. I  
15                  really don't know the details and I haven't  
16                  inquired on the details, but I do know the  
17                  second part of your question, that there is  
18                  legislation forthcoming. I'm not aware of the  
19                  details of it, nor have I inquired.

20                 Q    Fair enough. Thank you, Dr. German. Turning  
21                  now to some of the evidence that you've given in  
22                  response to questions from various counsel  
23                  around the difficulties in investigating and  
24                  prosecuting money laundering offences, I think  
25                  fair to say you'll agree with the proposition

1                   that investigating and prosecuting money  
2                   laundering as a criminal offence is frankly  
3                   really difficult?

4           A       There are definitely issues in terms of the  
5                   linkage, which has been mentioned by many  
6                   people, the linkage to the predicate offence.  
7                   We do have laundering charges. We do see  
8                   proceeds of crime charges, not so much in this  
9                   province as elsewhere, but there are definitely  
10                  problems with the linkage to predicate offences.

11          Q       And that's a problem that experienced police  
12                   forces deal with when they're trying to  
13                   investigate money laundering offences?

14          A       Correct.

15          Q       And I think you'll agree the same problem would  
16                   be encountered, for example, if a regulatory  
17                   body was charged with investigating money  
18                   laundering offences?

19          A       Well, I don't see a regulatory body, you know,  
20                   undertaking criminal investigations of money  
21                   laundering as such. So there may be, you know,  
22                   regulatory bodies often operate under a balance  
23                   of probability standard as opposed to a criminal  
24                   standard. So it really depends on what  
25                   regulatory fence they're looking at, whether

1                   they have to draw that same connection to a  
2                   predicate offence. It depends, I suppose, on  
3                   the regulatory offence.

4           Q       Let me -- I'll just put my question a bit  
5                   differently for you. All I was attempting to  
6                   get your views on was whether the problems faced  
7                   by police agencies would equally be faced by any  
8                   other type of agency trying to investigate that  
9                   type of crime.

10          A       This is complex stuff. There's no question  
11                   about that. I'm not disagreeing with you for a  
12                   minute. I'm just suggesting that connection and  
13                   having to find the predicate is something that  
14                   may be unique to the criminal law because there  
15                   are other ways of achieving that through civil  
16                   forfeiture that have proven successful.

17          Q       Right. And my question was indeed focused on  
18                   money laundering as a criminal offence, if that  
19                   assists you at all.

20          A       Money laundering as a criminal offence, I agree  
21                   with you there have been issues with drawing  
22                   that connection to a predicate offence.

23          Q       And indeed when you were charged with looking  
24                   at -- and I'm shifting gears here slightly,  
25                   Dr. German -- you've testified about this



1 designation as a Special Provincial Constable  
2 that GPEB investigators had, and I think you'll  
3 agree that one of the issues that you note both  
4 in the opinion you provided in 2016 for BCLC and  
5 GPEB and also in your first Dirty Money report  
6 that there was on the part of the stakeholder  
7 some confusion around the scope of GPEB  
8 investigators' authority with that Special  
9 Provincial Constable designation; is that fair?

10 A Yeah. And I came away with a sense that the  
11 appointment and certainly the legislation allows  
12 certain things, i.e. to get involved in a  
13 criminal investigation that arises from your  
14 regulatory function. But I am also aware that  
15 police services has a position with respect to  
16 Special Constables and I looked at that at one  
17 point. I'm not in a position to really comment  
18 on what it is today, but certainly special --  
19 Special Constables and the folks at GPEB really  
20 felt, I think, somewhat restricted in the  
21 ability to use that status unless it really  
22 arose from a criminal investigation. And --  
23 sorry, to get involved in a criminal  
24 investigation unless it arose directly from the  
25 regulatory function.

1           Q     Right.  And in your 2016 opinion what you  
2                    told -- and I can take you there if you need me  
3                    to do, but in the interest of time we'll try  
4                    without it first -- what you told GPEB and BCLC  
5                    was that GPEB is not a specialist  
6                    anti-laundering body, and any money laundering  
7                    investigation would likely be referred to law  
8                    enforcement.  Do you recall --

9           A     Correct.

10          Q     Yes, okay.  That's right.  And that's the advice  
11                    you gave to BCLC and GPEB in 2016?

12          A     I'm not too sure what's before this commission  
13                    in terms of my opinion and what isn't, but that  
14                    would be my position today if you're asking.

15          Q     Okay.  So it was your position in 2016, you  
16                    agreed.  And it's still your position today.  
17                    Thank you.

18          A     That is correct.

19          Q     And so -- and in terms of you were asked some  
20                    questions by Mr. Butcher on -- who represents  
21                    Mr. Desmarais, about whether or not you had  
22                    reviewed the SPC appointments for GPEB  
23                    investigators.  Do you recall that line of  
24                    questioning?

25          A     I do.

1           Q     Yes.  And if I can assist perhaps, Madam  
2                     Registrar, if you could please turn up Dirty  
3                     Money number 1, so that's exhibit 832, and I'm  
4                     looking at paragraph 320, which is on bottom  
5                     right, page 81.  And so you should see there,  
6                     Dr. German, in the first sentence of that  
7                     paragraph you say:

8                             "In the case of GPEB investigators, I am  
9                             informed that the appointment as a Special  
10                            Provincial Constable is limited to the  
11                            GCA."

12                    And my question for you is this:  does your use  
13                    of the language "I am informed" assist you at  
14                    all in recalling whether you looked at the SPC  
15                    appointment specifically?

16           A     I believe I spoke with police services branch on  
17                    this point, and I may be referring to being  
18                    informed by police services.  And I may also  
19                    have actually looked at specific appointments.

20           Q     Okay.  You don't recall one way or the other?

21           A     Not today.

22           Q     Okay.  And as Mr. Butcher pointed out, that  
23                    exact same language is found in the 2016  
24                    opinion.  Do you recall whether you spoke with  
25                    police services in the context of doing the work

1                   for your 2016 opinion or whether you spoke with  
2                   them again or a second time in the context of  
3                   writing your Dirty Money number 1 report?

4           A       My best recollection is that I spoke with  
5                   Clinton Pecknold at police services at the time.  
6                   He was the Director of Police Services and was  
7                   very helpful to me. That is my recollection.  
8                   But I'm -- I don't want to confuse one -- the  
9                   opinion with the report. My recollection of at  
10                  what point in time is a little unclear.

11          Q       Okay. So my question is do you recall whether  
12                  you spoke with Mr. Pecknold in advance of  
13                  providing the opinion?

14          A       That's what I'm saying. I don't recall  
15                  specifically when I talked to Mr. Pecknold, but  
16                  it is quite possible that I spoke to him. It's  
17                  not necessarily based just on looking at  
18                  appointments. I don't have an active  
19                  recollection today of what I meant by -- or the  
20                  information underneath "I am informed," whether  
21                  that's by a person or by just looking at the  
22                  documents.

23          Q       Okay. Thank you. Looking, then, if you could,  
24                  please, Dr. German, just at the paragraph right  
25                  above paragraph 319, regardless, the conclusion

1           you came to in both your opinion and -- I can  
2           take you there, but again, this is the same  
3           language, was that there's no general authority  
4           for a Special Provincial Constable to act as a  
5           constable and that they are instead restricted  
6           by the mandate set out in their appointment; is  
7           that right?

8           A     Correct, correct.

9           Q     And that as I said, that conclusion is the same  
10          that you reached in 2016 and again in 2018?

11          A     And that's my understanding today.

12          Q     Okay. Thank you. And indeed, now please, Madam  
13          Registrar, if we could turn to paragraph 311 of  
14          the report that's before us. Thank you.

15                 Dr. German, what I'd like to take you to  
16          here is the last sentence in this paragraph, and  
17          I put it to you basically this is something new  
18          that's not -- we don't find this statement in  
19          the 2016 opinion. What we find for the first  
20          time in 2018 is your comment that:

21                         "Unfortunately, for reasons discussed  
22                         later in this report, the status of a  
23                         Special Provincial Constable may not  
24                         suffice for what is required in casinos."

25          A     Yes, the point I'm making -- yes, you're

1           correct. The point I'm making there is that we  
2           need the police involved. And that is a point  
3           that I make in the report later on, the  
4           importance of police involvement in criminal  
5           investigations.

6           MS. HUGHES: Okay. Thank you.

7                     And thank you, Madam Registrar, I'm done  
8           with that document.

9                     And finally, Dr. German, the last topic I'd  
10          like to canvass with you deals more with some  
11          biggish picture issues. And I have this  
12          question for you: have you turned your mind in  
13          the course of your work to whether or not there  
14          might be a better approach to addressing money  
15          laundering than through criminal investigations  
16          and prosecutions?

17          A        I think with any criminal activity enforcement  
18          is just one part of the spectrum. It's an  
19          important part. I don't think we can forget  
20          that spectrum, that part of the spectrum. But  
21          there's certainly prevention and there's a  
22          continuum, I suppose, of what can be done.  
23          People will talk about dismantling and they will  
24          talk about disruptive tactics and so forth, but  
25          prevention to enforcement. They're both very

1                   important.

2                   Now, in terms of other legal regimes, we  
3                   have civil forfeiture in this province, and I  
4                   have spoken about civil forfeiture in the  
5                   reports. I believe civil forfeiture plays a  
6                   very important role and this province has a  
7                   state of the art civil forfeiture regime. But I  
8                   don't think we can abandon criminal enforcement  
9                   and shift strictly to civil because my sense  
10                  there is with civil forfeiture you're  
11                  essentially taking away the money that people  
12                  shouldn't have in the first place. Criminal  
13                  enforcement allows you to go after the  
14                  individual and, you know, if they've gone  
15                  through the system, they could end up in jail,  
16                  and you know, being penalized for their  
17                  activity. So I see a balance required.

18                Q     And you mentioned there being sort of a spectrum  
19                  of steps that can be taken. And I'd appreciate  
20                  your thoughts on whether -- I think you'll agree  
21                  that at least one other initiative that could be  
22                  pursued along that spectrum would be to increase  
23                  regulatory oversight of the bodies that are  
24                  involved, so, for example, increasing a  
25                  regulator's powers and then giving them those

1 powers to compel compliance or sanction  
2 non-compliance. Would that also be something  
3 that could fit along the spectrum?

4 A Yes, I'm sorry. Definitely. And that was, you  
5 know, the reason for my recommendation with  
6 regard to a strong independent regulator in the  
7 casino role.

8 Q And then I take it, Dr. German, you'll agree  
9 that whatever approach is adopted or whatever --  
10 wherever you are along that spectrum,  
11 cooperation from the various stakeholders and  
12 participants is going to be key?

13 A Correct.

14 Q And another aspect that will be important is to  
15 have good information sharing between those  
16 stakeholders or participants?

17 A Correct.

18 Q And that's indeed something you touched on in  
19 your 2016 opinion to BCLC and GPEB; isn't that  
20 right?

21 A It may well be.

22 Q And another important factor is that whatever  
23 framework is adopted, it will be important for  
24 the participants to have clearly defined roles  
25 within the regulatory regime. Is that fair?



1           A       Correct.

2           MS. HUGHES: Thank you, Mr. Commissioner. Those are  
3                   my questions for this witness.

4           THE WITNESS: Thank you, ma'am.

5           THE COMMISSIONER: Thank you, Ms. Hughes.

6                   Mr. Hira, what I propose to do is ask  
7                   counsel for the various participants whether  
8                   they have questions arising, and at the end of  
9                   that, I'll ask you whether you have any  
10                  questions for Dr. German arising. So we'll go  
11                  through that process at this stage.

12                   Mr. Butcher, anything arising?

13           MR. BUTCHER: No, thank you, Mr. Commissioner.

14           THE COMMISSIONER: Mr. Rauch-Davis?

15           MR. RAUCH-DAVIS: No, thank you, Mr. Commissioner.

16           THE COMMISSIONER: Ms. Dickson?

17           MS. DICKSON: Nothing arising. Thank you.

18           THE COMMISSIONER: Ms. Tweedie?

19           MS. TWEEDIE: No, thank you.

20           THE COMMISSIONER: Mr. McFee?

21           MR. McFEE: Nothing arising. Thank you.

22           THE COMMISSIONER: Ms. Henein?

23           MS. HENEIN: No, thank you.

24           THE COMMISSIONER: Ms. Bevan?

25           MS. BEVAN: Nothing, thank you.

1 THE COMMISSIONER: Mr. Skwarok?

2 MR. SKWAROK: No, sir. Thank you.

3 THE COMMISSIONER: Mr. Smart?

4 MR. SMART: I do, Mr. Commissioner. And I have to be  
5 forthright that it doesn't really arise from the  
6 questions, but it's a more general question and  
7 maybe I can pose it and you can see if there's  
8 any objection to it, and it's this:

9 **EXAMINATION BY MR. SMART:**

10 Q Mr. German, as you know, this commission was  
11 instituted or commenced by the government, and  
12 the terms of reference for the Commissioner  
13 include that the purpose of the commission are  
14 as follows, to inquire into and report on money  
15 laundering in British Columbia and to make  
16 recommendations, and they refer to a particular  
17 section. As you are aware, this commission has  
18 been now engaged for many months. They have a  
19 number of capable lawyers assisting that have  
20 done investigations into money laundering in  
21 this province and internationally they have  
22 interviewed a number of individuals. The  
23 commission has heard for weeks from individuals  
24 with relevant information into money laundering  
25 and different sectors in this province. There

1           are a number of participants that have been  
2           granted standing that have cross-examined these  
3           witnesses and been able to produce documents.  
4           It's a very thorough, in-depth process. Do you  
5           agree that the commission's in a better position  
6           than you were to assess money laundering in this  
7           province and to make recommendations? And I say  
8           that without any disrespect to you. It's just  
9           the reality of the different processes involved.  
10          Do you agree with that?

11          THE COMMISSIONER: And I just -- before you answer --

12          THE WITNESS: Sorry.

13          THE COMMISSIONER: Before you answer we'll just see  
14                  if Mr. Hira has any objection.

15          MR. R.R. HIRA: He hasn't -- unless I'm mistaken, he  
16                  hasn't attended the commission hearings or gone  
17                  through the exhibits. With that rather large  
18                  caveat and for what it's worth, I suppose  
19                  Dr. German can answer that question.

20          THE WITNESS: Thank you, Mr. Smart. I guess the way  
21                  I would look at it is sort of an apples and  
22                  oranges scenario. My review was a very -- my  
23                  terms of reference to me were very clear. It  
24                  was a review over a finite period of time to  
25                  provide the Attorney General with

1            recommendations, the first one with regard to  
2            casinos, the second one with regard to three  
3            other sectors of the economy.

4            I think the commission, from what little I  
5            know and the way you've described it, the  
6            commission's mandate is much broader than mine  
7            was and they've been able to, as you've  
8            indicated, use a lot of resources and plumb the  
9            minds of lots of experts, hear from lots of  
10           witnesses, so I'm really looking forward to what  
11           the commission has to say, and I hope that if  
12           any of my recommendations are of assistance to  
13           them, that's great. They will, you know -- I  
14           don't pretend for a minute that our mandates are  
15           the same and I really look forward to what the  
16           commission has to say in this area.

17           MR. SMART: That's all. Thank you, Dr. German.

18           THE COMMISSIONER: Thank you, Mr. Smart. I'm sorry,  
19           Mr. Mistry, I jumped over you. But I did  
20           indicate that I would give you an opportunity if  
21           anything arose from the evidence to pose any  
22           questions.

23           MR. MISTRY: Nothing arising, Mr. Commissioner.

24           THE COMMISSIONER: Thank you. And Mr. Usher?

25           MR. USHER: Nothing arising, Mr. Commissioner. Thank

1                   you.

2           THE COMMISSIONER: Thank you. Ms. George?

3           MS. GEORGE: Nothing arising. Thank you.

4           THE COMMISSIONER: Mr. Brongers?

5           MR. BRONGERS: Thank you, Mr. Commissioner. No,  
6                   nothing arising.

7           THE COMMISSIONER: Thank you. Mr. Martland?

8           MR. MARTLAND: No, thank you.

9           THE COMMISSIONER: Thank you. Yes, Mr. Hira, do you  
10                   have any questions you wish to pose to  
11                   Dr. German?

12          MR. R.R. HIRA: Yes, Mr. Commissioner. I've asked  
13                   that you be provided some authorities. I have  
14                   identified two questions, but I'd ask to stand  
15                   down for about five minutes to seek  
16                   instructions. I'm relying on Mr. Justice  
17                   Henderson's case in *Regina v. Montgomery* wherein  
18                   he poses -- and I believe you have the case in  
19                   front of you -- wherein he poses a question make  
20                   counsel speak privately to his or her witness  
21                   after cross-examination and before  
22                   re-examination for the purpose of discussing the  
23                   evidence to be given on re-examination. Both  
24                   crown and defence counsel have asked for a  
25                   ruling. This seemingly fundamental point has

1           never been settled in British Columbia. Then  
2           after some discussion in the penultimate  
3           paragraph, Mr. Justice Henderson states:

4                        "I am persuaded that the practice should  
5                        be that expressed by Macdonald, J. in his  
6                        article written subsequent to the decision  
7                        in Emil Anderson. Counsel are not  
8                        permitted to speak to their witnesses  
9                        after cross-examination and before or  
10                      during re-examination about the evidence  
11                      or issues in the case without leave of the  
12                      court. In most cases, leave will be given  
13                      readily. This practice has the advantage  
14                      of permitting the trier of fact to take  
15                      into account, when weighing evidence in  
16                      re-examination, whether a discussion with  
17                      counsel has taken place. In some  
18                      exceptional cases, leave to talk to the  
19                      witness will not [sic] be refused."

20                     As I say, I've identified two questions. I'd  
21                     like to seek instructions. Maybe it comes down  
22                     to zero questions.

23           THE COMMISSIONER: All right.

24           MR. R.R. HIRA: And I need about three to five  
25           minutes.

1           THE COMMISSIONER: All right. I suppose I should ask  
2           if anyone thinks I should exercise my discretion  
3           against that application. Are there any  
4           naysayers?

5           MR. MARTLAND: Maybe for the benefit of participants  
6           because Mr. Hira did indeed provide me with the  
7           *Montgomery* case I've just provided a link to it  
8           in the chat feature for anyone who wants to look  
9           at that immediately. I don't -- from commission  
10          counsel's point of view, we appreciate the  
11          matter being addressed on the record and leave  
12          being sought. I don't have a difficulty with  
13          it.

14          THE COMMISSIONER: All right. I don't hear any other  
15          objections, and it seems to me the fact that  
16          Dr. German has been under examination for the  
17          better part of two days and covered a fair  
18          amount of territory, it seems sensible to allow  
19          Mr. Hira to seek instructions from him with  
20          respect to whether or not he has any further  
21          questions. So I'll grant that application,  
22          Mr. Hira. And we'll stand down for five  
23          minutes.

24          MR. R.R. HIRA: Thank you, Mr. Commissioner.

25          THE REGISTRAR: This hearing is stood down for five

1 minutes until 1:32 p.m.

2 **(WITNESS STOOD DOWN)**

3 **(PROCEEDINGS ADJOURNED AT 1:27 P.M.)**

4 **(PROCEEDINGS RECONVENED AT 1:32 P.M.)**

5 **PETER GERMAN, a witness**  
6 **for the commission,**  
7 **recalled.**

8 THE REGISTRAR: Thank you for waiting. The hearing  
9 is resumed, Mr. Commissioner.

10 MR. R.R. HIRA: Mr. Commissioner. I have two  
11 questions on re-examination. What I propose to  
12 do is to pose the question and ask the witness  
13 to wait before he answers to see if there are  
14 any objections and then hearing none, let him  
15 answer.

16 THE COMMISSIONER: All right. Thank you, Mr. Hira.

17 **EXAMINATION BY MR. R.R. HIRA:**

18 Q The first question I have, Dr. German, arises  
19 from Ms. Dickson's examination this morning when  
20 she asked you whether or not you'd spoken to any  
21 defence counsel. I note that at page 3 of Dirty  
22 Money 2 under "acknowledgements" -- and I might  
23 add that if we didn't bring up this gentleman's  
24 name he would be quite annoyed -- you list  
25 Richard Peck, QC, as a person that you spoke to.



1                   Do you understand him to be a defence counsel,  
2                   amongst other things?

3           A       Yes, he most certainly is.

4           THE COMMISSIONER: All right. Well, we got the  
5                   answer without any objection, but I don't see  
6                   that as being objectionable in any event. Go  
7                   ahead.

8           MR. R.R. HIRA: Yes, I'm sure Mr. Peck would have  
9                   been quite annoyed if that question hadn't been  
10                  answered.

11          THE WITNESS: Sorry, Commissioner, I did speak a  
12                  little fast there.

13          THE COMMISSIONER: No, that's fine, Dr. German. Go  
14                  ahead.

15          MR. R.R. HIRA:

16          Q       The second question that I have in  
17                   re-examination, if you just wait before  
18                   answering, is -- and I may have this wrong, and  
19                   I stand to be corrected by Mr. Butcher -- is you  
20                   were asked some questions regarding documents  
21                   that you had reviewed in the course of your  
22                   report, and I note that commission counsel  
23                   provided to us -- and we have it right here --  
24                   approximately 910 documents occupying seven  
25                   volumes, some 1.45 gigabytes. Are these the

1 documents from the third parties that you  
2 received and reviewed? And please wait.

3 MR. MARTLAND: Mr. Commissioner, I'm going to suggest  
4 a refinement of the question, which is the  
5 question might usefully be what was identified  
6 by commission counsel and what was identified  
7 collectively by participants. But I'll let  
8 Mr. Hira consider that.

9 THE COMMISSIONER: All right.

10 MR. R.R. HIRA: My basic question is are these the  
11 documents or some of the documents that you  
12 looked at for the purposes of your reports?

13 THE COMMISSIONER: I don't hear an objection apart  
14 from what Mr. Martland has said. And if I  
15 understand your variation, Mr. Martland, was  
16 that these are documents that have been  
17 identified by not just commission counsel but  
18 also by participants' counsel.

19 MR. MARTLAND: Yes. And maybe I have a follow --  
20 maybe it's better placed as a followup question  
21 arising from Mr. Hira's. I'm not objecting to  
22 Mr. Hira's question.

23 THE COMMISSIONER: Okay.

24 MR. R.R. HIRA: I think, Mr. Martland, these are the  
25 documents -- the documents were provided in two

1                   tranches. The first tranche were Peter German  
2                   documents, which is what I'm referring him to.  
3                   The second tranche were documents identified by  
4                   counsel, which I'm not referring him to.

5                   THE COMMISSIONER: All right.

6                   MR. MARTLAND: I have no objection to that question.

7                   Thank you.

8                   THE WITNESS: I did review a volume of documents in  
9                   the course of both reviews and I provided those  
10                  to commission counsel via the department of  
11                  justice and also BCLC. And if I may just add  
12                  that I received information from a lot of  
13                  sources, BCLC, GPEB, and everybody that I dealt  
14                  with was very forthcoming with documents and  
15                  information, so I had no issue obtaining the  
16                  documents I wanted in the course of my reviews.

17                  THE COMMISSIONER: All right. Thank you.

18                  MR. R.R. HIRA: Mr. Commissioner, those are my  
19                  questions on re-examination.

20                  THE COMMISSIONER: Thank you, Mr. Hira.

21                               And thank you, Dr. German. I'm quite sure  
22                               that when you were retained four years ago by  
23                               the Attorney General to do your reviews, you  
24                               didn't expect to be in the position of  
25                               testifying before this commission. That may

1 fall under the heading of no good deed goes  
2 unpunished, but I'm very grateful to you for the  
3 time you've taken to provide your insights and  
4 your illuminations on your two comprehensive  
5 reports. So you're excused from further  
6 testimony.

7 **(WITNESS EXCUSED)**

8 THE COMMISSIONER: And I think we will adjourn now,  
9 Mr. Martland, to tomorrow morning at 9:30.

10 THE WITNESS: Thank you, Commissioner.

11 THE REGISTRAR: The hearing is now adjourned until  
12 April 14, 2021, at 9:30 a.m. Thank you.

13 **(PROCEEDINGS ADJOURNED AT 1:36 P.M. TO APRIL 14, 2021)**

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