

**PROCEEDINGS AT HEARING
OF
APRIL 19, 2021**

COMMISSIONER AUSTIN F. CULLEN

INDEX OF PROCEEDINGS

Witness	Description	Page
	Proceedings commenced at 9:30 a.m.	1
Sam MacLeod (for the commission)	Examination by Mr. McCleery	1
	Proceedings adjourned at 10:43 a.m.	60
	Proceedings reconvened at 10:58 a.m.	60
Sam MacLeod (for the commission)	Examination by Mr. McCleery (continuing)	61
	Examination by Mr. Smart	88
	Examination by Mr. Skwarok	96
	Examination by Mr. McFee	111
	Examination by Ms. Mainville	123
	Examination by Ms. Tweedie	131
	Examination by Ms. Chewka	133
	Examination by Ms. Mainville (continuing)	151
	Examination by Mr. Skwarok (continuing)	155
	Examination by Mr. McCleery (continuing)	157
	Proceedings adjourned at 1:05 p.m. to April 20, 2021	160

INDEX OF EXHIBITS FOR IDENTIFICATION

Letter	Description	Page
---------------	--------------------	-------------

No exhibits for identification marked.

INDEX OF EXHIBITS

No.	Description	Page
873	Ministry of Attorney General & GPEB Briefing Note re bank drafts and source of funds update – December 28, 2018 (redacted)	39
874	Ministry of Attorney General, GPEB & BCLC Joint Briefing Note - 2019 (redacted)	66

875	Ministry of Attorney General & GPEB Briefing Note re options for new regulator structure in response to Dr. German's recommendations – December 5, 2018	73
876	Ministry of Attorney General & GPEB Briefing note: establish a more effective and flexible regulatory model for gambling in BC – October 18, 2019 (redacted)	76
877	GPEB Briefing Note for decision of David Eby - October 22, 2019 (redacted)	82
878	Office of the Auditor General of Ontario, Value-for-Money Audit: Alcohol and Gaming Commission of Ontario - December 2020	96
879	Letter from Sam MacLeod re Source of Funds Declaration Identification Threshold – December 4, 2018	118
880	Deputy Minister's Committee on Anti-Money Laundering meeting minutes – May 2, 2019	120
881	Letter from Sam MacLeod re Suspension of BCLC directive – August 9, 2018	141
882	Letter from Sam MacLeod re Source of Funds Declaration policy – November 27, 2018	147
883	Letter from Sam MacLeod re source of funds policy – January 16, 2019	151

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

April 19, 2021

(Via Videoconference)

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

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

THE COMMISSIONER: Thank you, Madam Registrar.
Yes, Mr. McCleery.

MR. McCLEERY: Good morning, Mr. Commissioner. The witness scheduled for today is Mr. Sam MacLeod. I do see Mr. MacLeod in the hearing, and I understand that he will be sworn.

THE COMMISSIONER: Thank you.

**SAM MacLEOD, a witness
called for the
commission, sworn.**

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

THE WITNESS: My full name is Samuel Malcolm MacLeod, S-a-m-u-e-l, surname is M-a-c-L-e-o-d.

THE REGISTRAR: Thank you.

THE COMMISSIONER: Yes, Mr. McCleery.

MR. McCLEERY: Thank you very much.

EXAMINATION BY MR. McCLEERY:

Q Mr. MacLeod, can you see and hear me clearly?

A Yes, I can.

1 Q Thank you. If we have any technical
2 difficulties at any point, please just let us
3 know and we're happy to sort them out.

4 Mr. MacLeod, you're currently the Assistant
5 Deputy Minister and General Manager of the
6 Gaming Policy Enforcement Branch of British
7 Columbia; is that correct?

8 A Yes.

9 Q And you've held that position since July of
10 2018; is that right?

11 A Yes.

12 Q Before we discuss your current role, I want to
13 speak a little bit about your professional
14 background prior to joining GPEB. Before taking
15 on your current role, you spent 29 years with
16 the RCMP and then 14 years in other roles in the
17 BC Public Service; is that correct?

18 A Yes.

19 Q I wonder if you might give us a brief overview
20 of the position and roles you held within the
21 RCMP over the course of your career in that
22 organization.

23 A I started off as most do, in uniform work for
24 about five years. Transferred into plain
25 clothes duties, which is a general investigative

1 section within the RCMP. I did that for
2 approximately six years. I transferred to
3 Ottawa, held positions in finance, corporate
4 management and contract policing. I promoted to
5 Inspector at that time in Ottawa, then
6 transferred to Kelowna as the southeast district
7 officer, and I held that position until I
8 retired.

9 Q Thank you. During your time with the RCMP did
10 you have any significant involvement in money
11 laundering or proceeds of crime investigations?

12 A No, I did not.

13 Q And in what year did you join the BC Public
14 Service?

15 A In 2004.

16 Q And from 2004 to 2018 when you joined GPEB, I
17 wonder if you might just walk us through the
18 various positions you held in the public
19 service, again, prior to joining GPEB.

20 A Yes. I came into government as the Associate
21 Director of Police Services within the Solicitor
22 General Ministry. I held that portfolio for
23 about three years. I was then the Executive
24 Director of Security Programs and Police
25 Technology. I was regulating the private

1 security industry in BC. I held that position
2 for approximately six years. I was Executive
3 Director of Policing, Security and Law
4 Enforcement, kind of a combination of
5 portfolios, for a year and then transferred in
6 and took over as Superintendent of Motor
7 Vehicles, a position I held for five years.

8 Q And did any of those roles involve any
9 significant responsibilities related to
10 anti-money laundering?

11 A No, they did not.

12 Q During your time in police services, did you
13 have any responsibility for considering the law
14 enforcement response to money laundering or
15 proceeds of crime in the province?

16 A No, I didn't.

17 Q And prior to taking on your current role with
18 GPEB, during your tenure either with the RCMP or
19 the BC Public Service, did you have any
20 significant professional involvement in the
21 gaming industry in this province or any other?

22 A No, I did not.

23 Q Thank you. Let's move ahead, then, to your
24 current role and your time with GPEB. I wonder
25 if you might just begin by telling us how it is

1 Q So is it fair to say that Mr. Scott identified
2 this issue of money laundering as a high
3 priority for the gaming industry during your
4 tenure?

5 A Yes.

6 Q And you mentioned Dr. German's report. What, if
7 any, instructions -- or what were you told about
8 the province's position as to the acceptance and
9 implementation of Dr. German's recommendations?
10 Were you directed to implement them or was that
11 left to your discretion or what was the nature
12 of the instructions in that regard?

13 A The instructions were -- I was advised that the
14 government had accepted the 48 recommendations
15 in principle and the idea was to look at those
16 recommendations with the combination of other
17 individuals, other stakeholders, the anti-money
18 laundering secretariat that was set up under
19 Associate Deputy Minister Doug Scott, BCLC, the
20 service providers and really determine on each
21 recommendation the ones that we, GPEB, were
22 responsible for -- whether they would be
23 implemented as a -- were recommended or there
24 were options for those recommendations that
25 should be considered.

1 Q When you were initially appointed to your
2 current role -- Attorney David Eby was the
3 minister ultimately responsible for GPEB; is
4 that right?

5 A Yes.

6 Q And am I correct that that's no longer the case?

7 A No.

8 Q Who is the minister currently responsible?

9 A Minister Farnworth.

10 Q And do you recall when that change happened?

11 A Shortly after -- probably about two or three
12 months ago.

13 Q Okay. Thank you. Did you have occasion to meet
14 with Minister Eby sort of around the time or
15 shortly after you were appointed to your current
16 role?

17 A I did.

18 Q And did you discuss the issue of money
19 laundering in the gaming industry with Minister
20 Eby?

21 A I did.

22 Q Did Minister Eby give you any instructions or
23 directions or share any thoughts with you as to
24 how this issue ought to be addressed?

25 A Yeah, it was more or less an introductory

1 meeting between the two of us although I had met
2 him one prior occasion in another portfolio. So
3 it was an introductory meeting and then talking
4 about the German report and the recommendations
5 of the German report. And the one takeaway that
6 I brought out of that meeting was that Minister
7 Eby wanted the regulator to be responsible for
8 anti-money laundering.

9 Q And did you have -- sorry, I think I cut you off
10 there.

11 A No, I said it was just clear direction.

12 Q Did you have a clear sense at that time when you
13 were just getting acclimated to the industry
14 what exactly that meant for the regulator
15 responsible for money laundering, or ...

16 A No, I did not.

17 Q Okay. Do you have a clearer sense now of what
18 that might mean for the regulator to take on
19 that responsibility?

20 A Yes.

21 Q Can you describe sort of thinking back to that
22 time how you understand that suggestion from
23 Minister Eby at this point, what that means for
24 the role of the regulator.

25 A Right. I think it was clear in the German

1 recommendations that there was a lack of
2 involvement by the regulator in anti-money
3 laundering. They weren't -- and investigators
4 weren't involved in the casino on a day-to-day
5 basis. We had little insight into anti-money
6 laundering really. It was the reports coming
7 out of -- Section 86 Reports that are required
8 by industry to provide to GPEB when there's
9 commission of an offence or a suspicion of the
10 commission of an offence and they were really
11 getting that information or GPEB was getting
12 that information. It was really post the action
13 that had taken place or part of the incident
14 that led to those reports.

15 And so we were given the approval to hire
16 additional investigators to place in the
17 casinos, to be on the ground in casinos, to be
18 involved in the casinos and to be involved in
19 those instances first-hand and the opportunity
20 to do that.

21 Q Thank you. You mentioned earlier that based on
22 your interactions with Mr. Scott, your
23 understanding was that the province had accepted
24 Dr. German's recommendations in principle, but
25 it was up to the -- GPEB and the industry to

1 determine how to implement them; is that fair?

2 A Yes. With the direction, oversight of the
3 Deputy Minister's committee that was stood up to
4 provide the oversight for the recommendations.

5 Q In your meeting with Minister Eby did you
6 receive any additional instructions or
7 directions as to how the German report should be
8 handled?

9 A No.

10 Q Aside from these meetings with Mr. Scott and
11 Minister Eby, I wonder if you can describe for
12 the Commissioner how you went about orienting
13 yourself to GPEB, which was a new organization
14 for you, and the gaming industry generally,
15 which I gather was unfamiliar to you around the
16 time of your initial appointment.

17 A Yes. I had met with Associate Minister Doug
18 Scott and we went through -- had a general
19 conversation about the German report and
20 [indiscernible]. And then the discussion with
21 Minister Eby I had. I met with the CEO of BCLC,
22 Jim Lightbody, in the following week. I met
23 with representatives of JIGIT, the joint
24 investigation gambling -- Joint Integrated
25 Gambling Investigation Team of the RCMP and we

1 have staff embedded in that unit, of course.

2 I met with service providers. I toured
3 casinos. I met with the business industry
4 association for gaming in the province. At a
5 later date, several months later, I went to
6 Ontario to meet with my counterparts in the --
7 I'll call them the gaming commission, and had
8 kind of an overview of how they did business in
9 that space. And that was really more or less
10 the extent of it.

11 I did meet with the -- of course the
12 executive directors within GPEB to get a sense
13 from them of their roles, their responsibilities
14 for the divisions within GPEB and get an
15 understanding of how we regulated gambling in
16 the province.

17 Q And what were your initial -- based on these
18 meetings with the executive directors within
19 GPEB, what were your initial impressions of the
20 branch and how it was functioning?

21 A To me the branch was functioning very well. We
22 had some very key people in those significant
23 roles within GPEB. The whole branch was
24 functioning well. There is a workplace -- a
25 work environment survey that is done every

1 couple years in government to test the health of
2 the organizations, and GPEB had very good
3 results from that -- the latest survey that had
4 been done. So that just indicates to me that
5 the organization was healthy, the staff were
6 content in their roles, we had good leadership
7 within the division. Or within all the
8 divisions.

9 Q And did you identify any particular challenges
10 or deficiencies in the organization? I mean
11 more broadly priorities for areas that you
12 thought might need change within GPEB itself?

13 A Yes. We needed to -- there was a couple of
14 areas. We needed to set up a team to work on
15 the German recommendations. We had a very small
16 policy office there that needed to be expanded
17 to be able to carry out our work on the German
18 recommendations. We did that. There was a
19 couple of other areas. HR -- we were short of
20 HR resources to staff the key positions that had
21 been identified within the enforcement component.

22 And then when I looked at the compliance --
23 the enforcement component itself, we didn't have
24 a dedicated enforcement unit within GPEB. It
25 was embedded within the compliance unit, and

1 that compliance unit was huge. The executive
2 director that was responsible for that had horse
3 racing and compliance and audit, intelligence
4 and enforcement. And so it just struck me --
5 and it was as a result of the German
6 recommendations as well, the German report, that
7 indicated that the regulator didn't have that
8 dedicated response. Then I looked at the
9 enforcement unit overall and determined that we
10 should have a different structure in place.

11 Q And we've spoken a little bit about the German
12 report and you just indicated there was a need
13 to build out the policy team to address that.
14 Did you get an impression of how the German
15 report had been received within GPEB at the time
16 that you started with the organization?

17 A I think it was received very positively. There
18 was -- there was lots of good recommendations
19 obviously that would, you know, ensure the
20 integrity of gaming in the province and there
21 were some there were pointed to GPEB itself and
22 involving GPEB as an organization. So it was
23 positively -- it was a positive outlook on the
24 recommendations and the report.

25 Q Thank you. You mentioned as well that you had

1 the opportunity to tour some of the casinos in
2 the province and meet with service providers.
3 Did you have a chance to discuss Dr. German's
4 report with the service providers, you know,
5 shortly after your initial appointment to your
6 current role?

7 A Yes, I did. I toured three of the casinos in
8 the Lower Mainland and had an opportunity to
9 discuss the German report in general and more
10 about our enforcement actions within the casinos
11 and how we were trying to become more involved
12 and more proactive in the enforcement -- with
13 the enforcement component.

14 Q Maybe speaking first to that issue of GPEB's
15 enforcement role in casinos. I'm cognizant
16 there are multiple service providers, so I won't
17 assume they all had the same perspective. But
18 was there -- would you say there was a common or
19 a shared perspective on this issue of GPEB's
20 enforcement role among the various service
21 providers?

22 A The service providers I initially met with were
23 very receptive to having investigators in the
24 casino. They thought that that would -- it
25 would be of benefit to the casinos and to the

1 industry overall. So they were favourable.

2 Q Did you get an impression as to why they felt
3 that having investigators on site would be a
4 benefit to the casinos?

5 A It was all around money laundering for the most
6 part, the fact that these investigators would be
7 there to assist their service provider staff in
8 identifying unusual financial transactions at
9 the time, that we'd be there in real time to be
10 able to assist with that and follow up on those
11 incidents where it was appropriate to do so.

12 Q Thank you. And then moving back to the German
13 report, was there a shared or common perspective
14 amongst service providers on the German report
15 or did you find there was some difference of
16 opinion between them?

17 A Overall they were very -- they were very
18 responsive to the German report. They agreed
19 with the idea that we would be moving forward on
20 these recommendations and working with the
21 service providers to do that. So overall it was
22 in general agreement with the report and the
23 recommendations.

24 Q Thank you.

25 A That was my sense.

1 Q And you -- sorry. Was one of the individuals
2 you met with during this time Terrance Doyle of
3 the Great Canadian Gaming Corporation?

4 A Yes.

5 Q I want to ask you a couple of questions about
6 evidence that Mr. Doyle has given before this
7 commission about meetings he attended with
8 Minister Eby at which you may or may not have
9 been present. The first of these that Mr. Doyle
10 described, he described taking place prior to
11 Dr. German's engagement to conduct his first
12 review. And in fairness, Mr. Doyle was not
13 entirely certain as to whether or not you had
14 been present there. But am I correct that you
15 were not employed by GPEB prior to Dr. German
16 being retained to conduct his casino review?

17 A Yes.

18 Q So can I take it you were not present at any
19 meetings involving Minister Eby and Mr. Doyle
20 prior to Dr. German's engagement?

21 A No.

22 Q The second meeting that Mr. Doyle described took
23 place following the release of Dr. German's
24 first report. Do you recall attending a meeting
25 involving Minister Eby and Mr. Doyle and perhaps

1 others following the release of Dr. German's
2 report?

3 A Yes, I do.

4 Q Do you recall where that meeting took place?

5 A That took place in the Minister Eby's office
6 here in Victoria.

7 Q And aside from yourself and Minister Eby and
8 Mr. Doyle, do you recall if anyone else was
9 present for that meeting?

10 A Yes. Rod Baker was present also from Great
11 Canadian Gaming Corporation. Derrick Harder was
12 present, the Minister's MA. And I think -- I
13 believe that Deputy Minister Richard Fyfe was in
14 attendance as well.

15 Q To your knowledge what was the purpose of that
16 meeting?

17 A I think the meeting was initiated by Terrance
18 Doyle and Rod Baker, and the purpose of the
19 meeting was really to discuss the German report
20 with the minister and provide a level of comfort
21 to the minister that Great Canadian was
22 supportive of the recommendations in principle
23 and would work with GPEB and BCLC to further the
24 recommendations. So they were very supportive
25 of the report and the recommendations and

1 thanked the minister for that report, as a
2 matter of fact.

3 Q And do you recall Minister Eby having any
4 particular response to these assurances from
5 Great Canadian?

6 A Not particularly. It was a conversation back
7 and forth about the recommendations. He was
8 very pointed, I believe, about, you know, the
9 situation that was reported out in the German
10 report couldn't continue in the casinos. And
11 that was the reason for the recommendations and
12 the reason to work on the recommendations.

13 Q Let's move on to your interactions with BCLC as
14 you were getting oriented to the industry. And
15 you indicated earlier that you met with
16 Mr. Lightbody early on in your tenure; is that
17 correct?

18 A That's correct.

19 Q And can you maybe just give us a sense of what
20 it was you would have discussed with
21 Mr. Lightbody at that time.

22 A Again, it was an introductory meeting. I didn't
23 know Mr. Lightbody before that meeting, I had
24 never met him, so it was just becoming known to
25 him and him to myself, and then discussing the

1 German report and how we could move forward on
2 the German report.

3 Q And do you recall what Mr. Lightbody's
4 perspective on the report and recommendations
5 were at that time?

6 A Again, very supportive and I found Mr. Lightbody
7 to be very collaborative, engaging and willing
8 to work together on moving it forward, the
9 report and recommendations for it.

10 Q Dr. German's report refers to some past
11 difficulties in the relationship between GPEB
12 and BCLC. Do you recall reading about that in
13 his report?

14 A Yes.

15 Q Have you experienced any such difficulties in
16 your dealings with the BCLC during your time
17 with GPEB?

18 A I have not.

19 Q How would you characterize the relationship
20 between the two organizations during your
21 tenure?

22 A I think it's an excellent relationship. We've
23 established that through regular meetings. I
24 meet regularly with -- at the time it was Jim
25 Lightbody to discuss issues as they pop up. We

1 had regular meetings. That's carried through to
2 the success of CEOs to the current one. I also
3 have weekly calls with a couple of the other
4 individuals within BCLC that hold executive
5 portfolios. We meet jointly. The execs from
6 GPEB and BCLC meet jointly on a quarterly basis
7 to, again, review issues and initiatives that
8 are ongoing within both organizations. So I
9 think it's very collaborative. It's really an
10 excellent relationship that we have with BCLC.

11 Q Thank you. I understand that one of the recent
12 changes to that relationship is that you as
13 General Manager of GPEB have recently been given
14 the authority to issue directives to BCLC
15 without the approval of the responsible
16 minister; is that correct?

17 A Yes.

18 Q Is that an authority that you have exercised
19 during your tenure with GPEB?

20 A I have not.

21 Q And maybe you can speak to why not. Is it
22 because you haven't seen the need for it or is
23 there some other limitation or barrier that
24 prevents you from exercising that authority?

25 A I just haven't seen the need. The issues in

1 that that have arisen we resolve through
2 discussion and collaboration. There have been
3 no -- there hasn't been a need to issue a
4 directive.

5 Q Have you formed a view as to how or in what
6 circumstances that authority should be used by
7 the General Manager or GPEB?

8 A Not really, no. I would think that -- you know,
9 an example could be around the source of funds.
10 I did write a letter to BCLC about the source of
11 funds audits that we completed. If that
12 required a directive, I could have issued a
13 directive at that time. The letter sufficed and
14 the back and forth between the organizations
15 resolved the issue.

16 Q Is it fair to say, then, that your -- in your --
17 from your perspective it's preferable to attempt
18 to resolve any issues through discussion and
19 collaboration prior to issuing a directive of
20 the sort that you're now able to do?

21 A Yes.

22 Q In his evidence before this commission,
23 Mr. Lightbody spoke to another change in the
24 relationship between GPEB and BCLC which relates
25 to the role that GPEB once played in BCLC's

1 public communications.

2 A Right.

3 Q Is it the case that at the beginning of your
4 tenure GPEB reviewed and approved BCLC's
5 external communications before they were issued?

6 A Yes.

7 Q And is it the case that GPEB no longer performs
8 that function?

9 A We don't.

10 Q Okay. And I wonder if you can explain for the
11 Commissioner how that change came about.

12 A Yes. When I first became aware of the fact that
13 we were reviewing BCLC's external communication,
14 I spoke to the policy staff and the
15 communication staff within GPEB that were
16 responsible for that or that were doing that
17 work. It was an onerous task to go back and
18 forth with an external communication that BCLC
19 was putting out. It was a lot of work, and
20 really we didn't have -- it wasn't our
21 responsibility to do that from my perspective.
22 That was external communication. It was BCLC.
23 It didn't impact GPEB, and so we -- as far as I
24 was concerned, we didn't need to be doing that,
25 have that oversight.

1 Q And did you have discussions with
2 representatives of BCLC as to how to change that
3 situation?

4 A Yes. I had discussions with Mr. Lightbody about
5 this and we both agreed that it would be
6 practiced within.

7 Q Okay. Thank you. Does GPEB play any role in
8 reviewing or approving or -- BCLC's
9 communications to the responsible minister?

10 A No. We do -- I should clarify that. We do
11 review briefing notes if they're going up to the
12 minister and if they impact GPEB.

13 Q Can you maybe describe the purpose of that
14 review. Is GPEB just reviewing for information
15 and possibly to consider whether a response is
16 required, or is there some vetting of that
17 communication?

18 A There's no vetting. It's just an overview of
19 the briefing note to ensure that the policy or
20 the policy implications have been -- have been
21 considered by GPEB.

22 Q Thank you. In his evidence Mr. Lightbody and I
23 think another witness also gave evidence of a
24 meeting with Minister Eby about an audit
25 conducted by Ernst & Young of cheques issued by

1 the River Rock Casino. Do you recall attending
2 such a meeting?

3 A Yes, I do.

4 Q Do you recall if at that meeting there was any
5 discussion about whether that report should be
6 released publicly?

7 A I can't recall that discussion at that meeting.

8 Q Were you involved in any -- were you involved in
9 any other discussions about whether that report
10 should be released to the public?

11 A No, I was not.

12 Q Do you recall what the conclusions of that
13 report completed by Ernst & Young were?

14 A I think the impetus for it was there was some
15 indication, and I think it was from a media
16 report, that individuals could come into casinos
17 with cash and leave with a cheque and not gamble
18 or have minimum -- conduct minimum gambling.
19 The report covered a two-year period of all the
20 cheques that were issued at the River Rock
21 Casino, and there was no indication that kind of
22 activity was occurring at the end of the report.
23 That was the conclusion of the report.

24 Q Prior to receiving that report had that risk of
25 individuals buying in with cash and receiving

1 cheques after minimal play, had that been an
2 area of concern for you?

3 A Not really, no.

4 Q Okay. Is that because you hadn't thought about
5 it or because you didn't have any reason to
6 believe that that kind of activity was
7 happening?

8 A I was not aware of that report and the work that
9 was done around that report until I was invited
10 to the meeting with Ernst & Young and prior to
11 that I read the reports and the briefing from
12 the minister. And so it seemed to be that there
13 was a suspicion that that might be occurring and
14 that suspicion wasn't upheld, so there was no
15 further work required from a GPEB perspective on
16 that issue.

17 Q Okay. Thank you. We'll jump a little bit back
18 in time now to again around the time when you
19 were first appointed to your role. Do you
20 recall whether at the time you were appointed
21 whether BCLC was advancing proposals to enhance
22 its AML measures?

23 A Yes.

24 Q Do you recall what the nature of those proposals
25 was?

1 A There was a number of them. Delimiting
2 convenience cheques, removing a minimum amount
3 to set up a PGF account and there was a couple
4 others.

5 Q Do you recall if placing a limit on cash payouts
6 was one of those proposals?

7 A Yeah, that was the other one, one of the other
8 ones.

9 Q And to your recollection what was the status of
10 those proposals at the time when you joined
11 GPEB?

12 A I was unaware of them, and shortly after I
13 became aware of them was about a week after I
14 took over the role of manager ADM, and it was a
15 directive that was shared with me from BCLC
16 outlining that these initiatives were to be
17 implemented, and I believe it was the following
18 day or the following week. And I -- sorry.

19 Q No, please carry on. I didn't mean to cut you
20 off.

21 A I reached out to two of the executive directors
22 within GPEB, one in compliance, the head of
23 compliance, the other the head of policy, and
24 asked whether they knew about these initiatives.
25 Typically for a policy as we are responsible for

1 providing advice to the minister on the policy
2 background for broad policy issues, I would have
3 suspected or expected to see those and have them
4 reviewed by policy. That wasn't the case in
5 this instant. The policy had not seen those
6 initiatives.

7 There had been general conversation
8 between -- with the AD of compliance about
9 those. That was Anna Fitzgerald. And Anna
10 Fitzgerald advised me that she had had
11 discussions with Rob Kroeker about these
12 initiatives and had in a general sense, an
13 informal sense, indicated that she didn't see
14 any particular problems with them but
15 recommended they not go forward until the source
16 of funds audits had been resolved, the issues
17 that we were seeing with the source of funds
18 audit had been resolved.

19 As a result of that, a conversation with
20 Ms. Fitzgerald and the AD of policy, I contacted
21 Mr. Kroeker and asked that the initiatives be
22 held in abeyance. He agreed with that after the
23 discussion, and I followed that up with a letter
24 to Jim -- the CEO, to advise him of that -- Jim
25 Lightbody, to advise him of that requirement.

1 believe that they have come forward, and there
2 has been -- there have been further
3 communication between our policy shops regarding
4 those initiatives, much later, probably in June
5 of the following year of 2019, and there was an
6 understanding that they would have to come up
7 through the AML DMC if they would be furthered.
8 And that to my knowledge has not happened.

9 Q Thank you. You indicated one of the proposals
10 was to eliminate limits on the amount of money
11 that could be paid out to patrons using
12 convenience cheques. Is that accurate?

13 A Yes.

14 Q Did you form a view or have you formed a view as
15 to the wisdom of that change as an anti-money
16 laundering measure to permit greater amounts to
17 be paid out by cheque?

18 A Well, at the time we thought there was -- that
19 the source of funds policy had been implemented.
20 We're auditing against the source of funds.
21 We're seeing significant non-compliance with the
22 source of funds policy amongst the service
23 providers. And we were concerned about the
24 possibility of money laundering if cheques -- if
25 people were coming into casinos with money that

1 wasn't sourced properly and then given a cheque
2 at some point later on for that same amount of
3 money, that we -- that there was a possibility
4 of money laundering that could occur.

5 Q If the source of funds policy is working as it
6 should, would you be supportive of this proposal
7 to delimit convenience cheques in that instance?

8 A Yes.

9 Q I wonder if you can comment on -- we've just
10 spoken about this Ernst & Young report, which I
11 think indicated that there was no such
12 methodology of cash for cheques taking place,
13 but I think it highlights the potential risk of
14 paying money out in cheques. I wonder if you
15 can speak to how you see a removal of limits on
16 convenience cheques as furthering anti-money
17 laundering efforts in the gaming industry.

18 A It just removes the cash going -- moving around
19 within the industry. And so the -- what we were
20 concerned about was the source of funds and the
21 policies around the source of funds and whether
22 that was appropriately managed by the service
23 providers. And now that we know that we have
24 really good compliance with the source of funds
25 policy, delimiting convenience cheques I don't

1 think would be an issue at this time.

2 Q Thank you. Let's discuss, then, some of these
3 challenges with compliance with the source of
4 funds policy that you've just mentioned.

5 At the time that you joined the GPEB, the
6 source of funds requirement had been in place
7 for about six months; is that correct?

8 A That's correct.

9 Q And what can you say about the level of
10 compliance or the state of implementation of
11 that policy at the time that you first joined
12 GPEB?

13 A There was a number of audits that had taken
14 place or were taking place. The first audit had
15 been concluded and the second audit was starting
16 regarding the source of funds policy in the five
17 major casinos in the Lower Mainland. And the
18 first audit wrapped up in the fall of -- Early
19 fall of 2018, and there was significant
20 non-compliance amongst all the service
21 providers. There was discussion of course
22 between our compliance unit and the service
23 providers about the non-compliance. And then a
24 further audit was conducted in the fall of 2018,
25 and we, again, saw significant non-compliance

1 with the policy.

2 At the same time there was an issue with
3 BCLC's advice to service provider about the
4 information that's required from bank drafts.
5 In particular we had required that -- of course
6 the source of funds policy required that a bank
7 account number be included. And the bank
8 drafts, BCLC had verbally advised service
9 providers and in writing, I believe, that they
10 could use the bank draft number as opposed to a
11 bank account number or in lieu of a bank account
12 number, which was contrary to the source of
13 funds policy.

14 So we were seeing some non-compliance
15 because of that initiative -- or because of that
16 direction, but there were other issues of
17 non-compliance as well that were detailed in the
18 audit reports.

19 So as a result of those two audits, I
20 wrote -- authored letters to the three service
21 providers in the Lower Mainland, Gateway, Great
22 Canadian, Parq, advising that -- acknowledging
23 that was this level of non-compliance
24 [indiscernible], that we would be completing a
25 further audit and that we expected them to

1 comply with the source of funds in a more
2 significant manner than what we had seen.

3 Q I wonder if you can speak to -- you mentioned
4 that there was an issue around the use of bank
5 draft numbers as opposed to bank account
6 numbers, and I wonder if you can comment on the
7 significance of that difference.

8 A Yeah, the bank account number is to a particular
9 individual, so then there's a tracking that's
10 available to ensure that the money that the
11 individual is coming into the casino with is
12 their own money and it came out of their own
13 account. A bank draft number doesn't provide
14 that level of knowledge. It's a -- you can't
15 tie -- my understanding is you can't tie a bank
16 draft number to a particular bank account. And
17 it's difficult to do so. It's difficult for the
18 police to do so. It would be difficult for GPEB
19 to do so. Where if we have the bank account
20 number, that's an individual's -- ascribed to an
21 individual.

22 Q And has that issue since been resolved such that
23 service providers are now collecting the account
24 number as opposed to the draft number?

25 A Yes.

1 Q And I think you mentioned earlier on that you've
2 now moved to the point where there is strong
3 compliance with the policy. Are you -- at least
4 as of the time that casinos closed due to the
5 COVID-19 pandemic, were you satisfied with the
6 level of compliance with that policy?

7 A Yes.

8 Q And I think you also mentioned this was an issue
9 for multiple service providers. Is it fair to
10 say this was sort of a challenge across the
11 board on the industry and not one that was
12 isolated to any particular casino or service
13 provider?

14 A No, it was a challenge across the board, and
15 really it was a new initiative and there is an
16 education and awareness component to a
17 regulator's role and responsibilities. And
18 that's really how we positioned this and how we
19 approached this. We didn't -- you know, we
20 conducted two audits, sent the letters,
21 conducted the third audit and there was better
22 compliance, fourth audit and we saw good
23 compliance.

24 Q Is it fair to say, then, that these issues with
25 compliance were -- could be characterized as

1 growing pains associated with a new initiative
2 as opposed to any deliberate obstinance or
3 resistance to the policy?

4 A Absolutely growing pains.

5 Q I appreciate you weren't around to see what the
6 industry looked like prior to the implementation
7 of this policy, but I wonder if you have a
8 perspective on the impact that it's had -- in
9 particular on the impact it's had on the risk of
10 money laundering in the gaming industry in this
11 province.

12 A Yeah, I believe it's reduced the risk
13 considerably. You know, we monitor Suspicious
14 Transaction Reports and Large Cash Transaction
15 Reports as well as unusual financial
16 transactions, and we have seen a significant
17 drop in Suspicious Transaction Reports as -- and
18 large cash transactions after -- post the
19 implementation of source of funds policy. So I
20 think it's resolved the issue that was
21 identified in the German report about large bags
22 of money coming into casinos.

23 Q Have you identified any adjustments or changes
24 to the policy that you think should be made to
25 enable it to function more effectively, or are

1 you content with it in its current state?

2 A I'm content in the current state. The last
3 audit we did was in 2020, and of course the
4 casinos have shut down. But we were satisfied
5 with the results and we were satisfied with the
6 intent of that -- of the policy and the
7 threshold around it.

8 MR. McCLEERY: Thank you. Madam Registrar, I wonder
9 if we might see GPEB1467, please.

10 Q Mr. MacLeod, you see a document on the screen
11 before you?

12 A I do.

13 Q This is a GPEB briefing note addressed -- or for
14 the information of Minister Eby prepared on
15 December 28th, 2018; is that right?

16 A Yes.

17 MR. McCLEERY: And if we go down, Madam Registrar, to
18 page 3 of the document.

19 Q We see, Mr. MacLeod, this was prepared by Jeff
20 Henderson of GPEB and approved by you; is that
21 right?

22 A Yes.

23 Q And do I take it to mean that this means you
24 were not the author of the document but you
25 would you would have reviewed it and approved it

1 before it went to the minister?

2 A That's correct.

3 Q And do you recall reviewing and approving this
4 particular document?

5 A Yes, I do.

6 Q And do you know if it actually made its way to
7 the minister?

8 A It did.

9 MR. McCLEERY: And if we can go -- I apologize, Madam
10 Registrar -- back up to page 1.

11 Q Judging from the bullet points under the summary
12 here, I take it that this -- the purpose of this
13 report was to provide the minister with an
14 update on some of the challenges in implementing
15 the source of funds directive and the progress
16 that was being made in that regard?

17 A That's right.

18 Q Okay. And if we look at the bottom of the
19 screen, we see a table. Does that come up on
20 your screen there, Mr. MacLeod?

21 A Yes. Yes.

22 Q Thank you. And would you agree with me that
23 based on this table we see that -- as a result
24 of the source of funds directive, we see there
25 was quite a significant reduction in both the

1 number and dollar amount of both large cash
2 transactions and Suspicious Transaction Reports?

3 A Yes.

4 Q And if we look in the third or the final row of
5 the table, we see there was a less significant
6 but still healthy increase in the number of bank
7 drafts of 19 percent; is that right?

8 A Right.

9 Q At the same time we see there's a 16 percent
10 drop in the dollar amount associated with those
11 bank drafts. Do you agree with that?

12 A Yes.

13 Q Do you -- did GPEB to your knowledge conduct any
14 analysis of why there would be this reduction in
15 the dollar amount of bank drafts at the same
16 time that casinos were seeing a fairly healthy
17 increase in the number of bank drafts?

18 A I don't believe we did.

19 Q Okay. And do you have any sense of why that
20 might have been the case?

21 A I don't.

22 MR. McCLEERY: Okay. If that could be the next
23 exhibit, please, Mr. Commissioner.

24 THE COMMISSIONER: 873.

25 THE REGISTRAR: Exhibit 873.

1 **EXHIBIT 873: Ministry of Attorney General &**
2 **GPEB Briefing Note re bank drafts and source of**
3 **funds update - December 28, 2018 (redacted)**

4 MR. McCLEERY: And we can take that document down
5 now, please, Madam Registrar.

6 Q I want to shift gears now, Mr. MacLeod, and go
7 back to a topic you touched on briefly earlier
8 on which is GPEB's enforcement and investigative
9 function. The Commissioner has heard evidence
10 from GPEB's Executive Director of Enforcement,
11 Cary Skrine, about a review that you asked him
12 to undertake of GPEB's enforcement function in
13 or around September 2018. Is that something
14 that you asked Mr. Skrine to do?

15 A Yes.

16 Q I wonder if you can explain what prompted you to
17 ask Mr. Skrine to undertake that review.

18 A That goes back the conversation earlier about
19 the German report and the indication in -- the
20 comments within the German report that GPEB was
21 not -- didn't have a proactive response to
22 anti-money laundering. And one of the
23 recommendations, the interim recommendations was
24 to increase the regulatory presence within
25 casinos.

1 We didn't have that dedicated response
2 according to the German report, and that's what
3 I was more or less looking for when I tasked
4 Cary Skrine with looking at the overall
5 enforcement regime within GPEB as it stood and
6 was there a better model that we should move to.
7 And that included the intelligence unit as well.

8 Q And Mr. Skrine has given detailed evidence about
9 his findings. I won't ask you to review them in
10 that level of detail, but I wonder if you might
11 share with the Commissioner what you viewed as
12 the key findings or takeaways of Mr. Skrine's
13 review.

14 A Yes. Some of the key takeaways from that was
15 the idea of having a dedicated enforcement unit.
16 As I mentioned earlier, the executive director
17 for compliance had a broad range of
18 responsibilities and significant portfolios
19 included in audit, compliance, horse racing,
20 intelligence and enforcement. And when I looked
21 at, you know, I had -- I happened to have had a
22 conversation with a couple of our investigators
23 that were responsible for attending casinos in
24 the early going after that initiative had been
25 implemented.

1 And when I questioned them about their role
2 in casinos, they were quite unsure as to what
3 they were to do in casinos. So they weren't
4 really sure of the roles and responsibilities.
5 And again, I felt that went back to not having
6 that dedicated proactive response.

7 So the takeaways from Cary Skrine's work
8 was to create an enforcement division within
9 GPEB, dedicated enforcement, and have the
10 investigators in the casinos more proactively
11 involved in money laundering -- anti-money
12 laundering. And that could include working
13 with -- obviously working with the compliance
14 folks within the service -- within the casinos
15 as well as the cash cage resources that were
16 taking in cash and creating the UFTs that we
17 would get a copy of. So the idea was to have
18 our staff more involved in that day-to-day
19 operation and business.

20 The other component, the takeaway of this
21 was we looked at our intelligence unit within
22 GPEB. We had a two-person intelligence unit.
23 The products -- the intelligence products that
24 they were giving us were national, international
25 in scope for the large part. And that -- I

1 thought that was the responsibility -- should be
2 the responsibility of the RCMP, that we should
3 be looking at more tactical or actionable
4 intelligence products. And so the idea was to
5 integrate our intelligence with JIGIT and CFSEU
6 intelligence resources, which we did.

7 Q And you've indicated already that you went ahead
8 and did create this independent, separate
9 enforcement division within GPEB; is that right?

10 A Yes.

11 Q And was that ultimately your decision to create
12 that division, or that needed to go up to
13 someone higher in government?

14 A That was my decision.

15 Q Okay. And I appreciate it had a limited amount
16 of time to operate prior to the shut down of
17 casinos, but can you speak to what you had begun
18 to see in terms of results from that division
19 following its creation or how you would have
20 seen it processing in the time that it had?

21 A It was progressing. I think we had a short
22 window, a short runway to really evaluate it and
23 we will need a longer runway for sure. But I
24 think the relationship of the service providers
25 was enhanced, the relationship with the BCLC

1 compliance folks, the AML unit there was
2 enhanced. We were getting good feedback from
3 the service providers about having those folks
4 on the ground in the casinos in real time. So I
5 think that it's value added.

6 And we were starting to -- the investigators
7 were starting to become involved in instances in
8 the casinos where issues were being addressed in
9 real time as opposed to receiving the reports
10 and then trying to determine what action to
11 take.

12 Q I want to spend a little more time speaking
13 about the role of GPEB investigators in casinos,
14 and I wonder if you can maybe first speak to
15 what that presence looks like at this stage. I
16 gather -- I think from evidence we've heard
17 previously it's not the case that there's a 24/7
18 presence in the sense that there's an
19 investigators in every casino in the province at
20 every hour of every day; is that right?

21 A That's right. We have a -- we have the
22 12 additional resources that were assigned as a
23 result of the German recommendation. Those
24 resources allow us to spend about 14 hours a
25 day, seven days a week in the five Lower

1 Mainland casinos and those are the ones that are
2 the bigger casinos with more patrons and more
3 dollar value coming through the doors.

4 I think Cary Skrine assessed the other
5 casinos for that sort of response and didn't see
6 the need for it. The 14/7 allows us to be in
7 there -- and we arrived at -- or Mr. Skrine
8 arrived at the 14/7 with just doing an analysis
9 of things like Suspicious Transaction Reports
10 and UFT reports and Section 86 Reports and Large
11 Cash Transaction Reports and just determining
12 where -- when and where those were occurring
13 within the casino and what time of day, and
14 that's how we came up with the 14/7 response
15 time for those investigators.

16 Q Are you satisfied with that level of presence or
17 would there be value to having investigators
18 present for the other 10 hours in the day?

19 A I believe, you know, this right now is good. We
20 need to assess on an ongoing basis, and we had a
21 short window, as I indicated, to be able to do
22 that. But I think generally I don't see the
23 benefit of having investigators in a casino when
24 there's very little action occurring in the
25 casinos. And if that were to change, we would

1 obviously -- it's a fluid response, so we would
2 change to accommodate that. Not requiring more
3 resources but -- at this time.

4 Q Okay. Speaking again of what investigator are
5 actually doing when they're in the casinos. You
6 mentioned their engagement with casino staff and
7 compliance personnel. The Commissioner has
8 heard evidence from a number of witnesses about
9 the issue of GPEB investigators speaking with
10 casino patrons. And I wonder if you've come --
11 or GPEB has come to a conclusion as to whether
12 it's appropriate for GPEB investigators to speak
13 with casino patrons in particular about large or
14 suspicious cash transactions?

15 A Yes. I am of the opinion, and I've directed --
16 provided direction to Mr. Skrine and the
17 enforcement component that they can interview
18 patrons. We are responsible for the integrity
19 of gaming in the casinos. It's our role as
20 investigators to -- if there is an issue of an
21 unusual financial transaction or suspicious cash
22 in the casino, that's a responsibility of the
23 regulator at that time to be involved in that
24 investigation.

25 Q And can you speak to the value of those

1 conversations from GPEB's perspective in
2 safeguarding the integrity of gaming. What do
3 those -- how important are those conversations
4 with patrons and what do they allow you to do to
5 fulfill your mandate that otherwise wouldn't be
6 possible?

7 A It allows us to do this in real time as opposed
8 to receiving a report about it and then trying
9 to action some sort of a regulatory
10 investigative followup. It allows us to
11 interact with the patron and to provide further
12 information to the cash cage operator, for
13 example, and/or find out more information about
14 the source of funds or the identification of a
15 patron if they're refusing, for example, to
16 provide proper identification.

17 Q And do you have an expectation as to what might
18 happen with that additional information? In
19 particular, I'm thinking do GPEB
20 investigators -- are they empowered to direct
21 casino personnel to, say, refuse a transaction
22 if they deem it to be unduly suspicious?

23 A Yes. If the investigators were of the opinion
24 that they had reasonable grounds to believe that
25 this was a commission of a criminal offence, for

1 environment.

2 Q And has GPEB seen the need to impose any
3 additional safety or security measures to
4 address that risk?

5 A Not at this time. And, again, this is new for
6 us and new for the investigators, and as we --
7 this evolves and we become more familiar or they
8 become more familiar with that work and the
9 responsibilities and the risks associated with
10 that work, then we'll adjust accordingly.

11 Q Having spoken now about GPEB's own
12 investigators, I want to turn to the role of law
13 enforcement, which you just alluded to. The
14 Commissioner heard from a number of witnesses
15 who have spoken about the significance of law
16 enforcement's engagement with the gaming
17 industry in particular with respect to this
18 issue of the risk of money laundering.

19 I wonder if you can speak to your
20 perspective as to the importance and the nature
21 of law enforcement's role in the gaming industry
22 in the province.

23 A As I indicated, the criminal investigations
24 around money laundering are the responsibility
25 of the police. We don't have the resources nor

1 the safeguards in place to be conducting
2 criminal investigations. That is the mandate of
3 the police. I think there was a -- when I read
4 the German report, I looked -- you know, I think
5 there was a general lack of priority from the
6 police of jurisdiction for the incidents of
7 money laundering that were or the allegations of
8 money laundering that were occurring in casinos.

9 I know that Cary Skrine has reached out to
10 the police of jurisdiction, has engaged them in
11 setting up a communication and response protocol
12 to the casinos now and also set up a protocol
13 around interview of patrons because service
14 providers' compliance in the casinos have a
15 responsibility around the UFTs -- or the source
16 of funds, I should say, and then BCLC compliance
17 has that same responsibility around know your
18 customer.

19 So there's various interviews that could
20 take place with the patrons. I know that Cary
21 Skrine is working to establish protocols for
22 those interviews. So GPEB would do the
23 regulatory interviews, and police would do the
24 criminal interviews. And obviously we would be
25 there to provide assistance to the police where

1 and when required.

2 So I think there's more engagement. There
3 is more engagement with the police than there
4 had been in the past right now. And setting up
5 those protocols and information sharing
6 agreements is part and parcel of the response
7 going forward to money laundering.

8 Q Thank you. The Commissioner's heard evidence
9 about GPEB's involvement with the Joint Illegal
10 Gaming Investigation Team, and I wonder if you
11 can speak to the role that JIGIT plays and the
12 importance of their engagement with the
13 industry.

14 A It's significant. We have people embedded,
15 investigators embedded in JIGIT and we also have
16 the intelligence unit embedded within JIGIT now.
17 And I think it's a really, really good model for
18 enforcing money laundering in the province,
19 dedicated police officers with assistance from
20 the regulator and involvement with the
21 regulator.

22 The intelligence that comes in from the UFTs
23 and STRs are shared with the intelligence unit.
24 They do an analysis of those and provide that
25 analytics, that data, the results of that to the

1 investigators, and our GPEB investigators do the
2 work required to build up those files to provide
3 them to the JIGIT police officers who action the
4 criminal investigations.

5 Q You've spoken about the role of JIGIT now and
6 earlier about the role of local police of
7 jurisdiction. As you may recall, Dr. German
8 recommended the creation of a designated
9 policing unit in addition to those levels of
10 policing, referring to JIGIT and local police of
11 jurisdiction.

12 Do you have a view as to the need for a
13 designated policing unit of the sort recommended
14 by Dr. German separate and apart from what
15 currently exists?

16 A No, I don't. I think that the model that we
17 have in BC with JIGIT and the regulator embedded
18 is an excellent model and now that we have the
19 proactive response to our -- with your
20 investigators in the casinos, I think it's a
21 model that's sustainable going into the future,
22 and we can assessment that at some point. As I
23 indicated, you know, we're in a short kind of
24 runway with what we have done in the enforcement
25 realm in the last year or so with the casinos

1 being closed. It's really impacted our
2 assessment and analysis of that.

3 But I think to be fair to what we've done
4 and what we are working with with JIGIT that we
5 need some time to assess that and we can compare
6 that against the results of the DPU or what
7 would be the results of a DPU or, you know --
8 because, you know, Ontario has the OPP, and
9 we've looked at that as their solution to money
10 laundering in casinos as well.

11 Q Speaking of Ontario, I recall you indicated that
12 you had a chance to visit Ontario or early on in
13 your tenure with GPEB; is that right?

14 A Yes, I did.

15 Q And I take it you gained a sense of the role
16 played by the OPP in the gaming industry in that
17 province?

18 A Right.

19 Q And that involves a much more regular police
20 presence physically in the casinos; is that a
21 fair assessment?

22 A I believe that's a fair assessment. They also
23 have -- they also have liquor and cannabis, so
24 those police officers are involved in much more
25 than gaming, so the extent to which -- the

1 amount of hours they're spending in casinos, I'm
2 not aware of the amount of hours they spend in
3 the casinos. I don't know if it's comparable to
4 our investigators are spending in casinos here
5 in BC.

6 Q Do you have a perspective, then, as to whether
7 there would be value in having police officers
8 regularly present in casinos either in addition
9 to or in place of the current presence of --
10 that GPEB investigators have? Is there a role
11 for police in just being on site on a regular
12 basis?

13 A I don't [indiscernible] that role. I think with
14 the enhanced role of our investigators that that
15 fills that void that was in the casinos at the
16 time from an enforcement perspective, and we
17 have that relationship with the police now that
18 we -- you know, and the protocols in place and
19 the sharing of information in place, the
20 agreements in place. But I think that's -- we
21 have advanced the enforcement component within
22 casinos and with JIGIT to a point where I think
23 that -- I don't see the need for police in
24 casinos on a regular basis.

25 Q Thank you very much. I want to pivot now,

1 Mr. MacLeod, and focus on a more forward-looking
2 view and speak a little bit about your sense of
3 the current and remaining risks of money
4 laundering in casinos in this province or the
5 gaming industry generally and some potential AML
6 measures that have been either recommended or
7 considered but not yet at least implemented.

8 And I thought we might begin just by trying
9 to get a sense of your current sense of the
10 risks that remain in the gaming industry. And I
11 want to begin with land-based casinos. We've
12 spoken about bank drafts and past issues with
13 large cash transactions. I wonder if you can
14 describe your assessment of what the current
15 risk of money laundering in land-based casinos
16 is and sort of where you see the key points for
17 that risk.

18 A I think from my perspective some of the risks
19 that have been identified is the under 10,000,
20 the amount of money coming into casinos under
21 \$10,000 denominations. That has been
22 identified. We have done some work on that.
23 It's difficult and that work is still in
24 process. It's a little difficult because, you
25 know, the majority of those people are unknown.

1 And so we have that factor of -- we've seen --
2 we saw a significant increase in the amount of
3 money coming into casinos in that 9- to \$10,000
4 range, which could be an indicator of
5 structuring with the [indiscernible]. So I
6 think that's a risk.

7 I think the bank drafts are a risk. Until
8 we get that all nailed down properly it will
9 still remain a risk. And those are the -- those
10 are the most significant ones from my
11 perspective.

12 Q The risk of large cash transactions, is that --
13 in your view has that been largely dealt with by
14 either Dr. German's recommendation or other
15 changes to the industry in recent years?

16 A Yeah, the source of funds, I think, has really
17 impacted large cash transactions for the most
18 part.

19 Q Okay. And when you refer to the risk associated
20 with smaller transactions under that source of
21 funds threshold, fair to say that arises because
22 there is no requirement to prove where those
23 funds came from? Is that fair?

24 A And/or to identify the people that are playing
25 at that level.

1 Q And I wonder if you could elaborate a little bit
2 on the risk you see in -- with bank drafts.
3 What is the -- we previously I think understood
4 that bank drafts were safer than cash because
5 there was at least some paper trail. What is
6 the nature of the risk associated with bank
7 drafts from your perspective?

8 A I think we've identified that through the
9 information that's contained in bank drafts. So
10 we're not sure if you know, if we're only
11 getting a bank draft number that they're coming
12 from an individual's account. So the issues
13 that we have identified and the source of funds,
14 and once we resolve that I think we'll take care
15 of bank drafts, [indiscernible] the risk around
16 bank drafts.

17 Q And is GPEB or the industry generally
18 considering solutions to deal with the risk
19 associated with smaller cash transactions?

20 A The -- as I indicated, we did a review of those
21 small cash transactions and, you know, there was
22 some work that now needs to be done as a
23 followup to that. We've identified some
24 potential issues with some potential patrons
25 that need to be followed up.

1 The issue I guess around all of that, and
2 it's one of the initiatives that BCLC is looking
3 at is account-based gaming or [indiscernible].
4 And really from my perspective it would resolve
5 a lot of the money laundering risks that we have
6 in casinos if we know who the players -- who the
7 patrons are, all of the patrons when they come
8 into a casino or play online. And I know that's
9 an initiative that BCLC is pursuing at this
10 time, and I would certainly agree with that.

11 I think it has -- it would have other
12 benefits, including the benefit of responsible
13 and problem gambling. If you could identify the
14 players and their playing patterns. And we had
15 triggers for patrons that if they had set a
16 limit, for example, on how much they were going
17 to gamble in a month and they were over that,
18 that, you know, push notices could be sent out
19 to them. So I think there's lots of benefits
20 from an account based strategy or known play
21 strategy.

22 Q Until that kind of a strategy can be put in
23 place, would you see value in lowering the
24 threshold for the existing source of funds
25 policy to something below \$10,000 to address

1 regulates horse racing; is that right?

2 A That's correct.

3 Q Do you see a significant risk of money
4 laundering in the horse racing industry in this
5 province today?

6 A No, I don't. It's not a -- it's not a
7 significant industry in the grand scheme of
8 things. And it's -- you know, the bets, there
9 is not a lot of betting that occurs in BC for
10 the most part and, you know, the money within
11 the industry is not significant. You know, the
12 price of horses and that would not to me provide
13 an opportunity to launder money.

14 Q Thank you. And GPEB also regulates online
15 gaming?

16 A Yes, we do.

17 Q Has GPEB done any assessments or examined the
18 risk of money laundering through online gaming?

19 A Yes. Through the regulated online gambling,
20 through playnow.com, which is a BCLC offering.
21 We have done some work on that to look at the
22 money laundering risks within Play Now, and
23 further work needs to be done on that.

24 Q You indicated that further work needs to be
25 done. Has the work that has been done to date

1 Yes, Mr. McCleery

2 MR. McCLEERY: Thank you, Mr. Commissioner.

3 **EXAMINATION BY MR. McCLEERY (continuing):**

4 Q Mr. MacLeod, I want to conclude by asking you
5 about a few different strategies or proposals
6 for mitigating some of the risks that we spoke
7 about before the break. And the first one I
8 want to ask you about is a suggestion that
9 service providers should be required to refuse
10 all transactions identified as unusual financial
11 transactions. Do you recall that idea being
12 raised and considered?

13 A Yes.

14 Q And maybe to ensure we're all using the same
15 words in the same way. Can you just describe
16 what an unusual financial transaction is within
17 the gaming industry in this province?

18 A Yes. It's a -- it's created by service
19 providers, by cash cage operators for the most
20 part, when they're dealing with a patron in the
21 first instance with buy-in if there's anything
22 unusual, and FINTRAC provides a list of those
23 things that could be unusual as indicators. If
24 there's anything unusual, then they have to
25 create this unusual financial -- UFT report

1 that's submitted to -- up to BCLC obviously and
2 then to GPEB as well.

3 Q And am I correct that BCLC uses those reports to
4 consider whether a transaction should be
5 reported to FINTRAC as a suspicious transaction,
6 is that your understanding?

7 A Yes.

8 Q And it's not the case that every unusual
9 financial transaction becomes a suspicious
10 transaction report; is that right?

11 A That's right.

12 Q Do you recall where the idea that every unusual
13 financial transaction might be refused
14 originally came from?

15 A I don't exactly, but I think it came out of the
16 DMC, discussions at the AML DMC.

17 MR. McCLEERY: Thank you. Madam Registrar, can we
18 please see BCLC0004088.

19 Q And do you see on the screen -- a document on
20 the screen in front of you, Mr. MacLeod?

21 A Yes, I do.

22 Q This is -- looks to be a joint briefing note
23 from GPEB and BCLC, the purpose of which is
24 the -- for decision of deputy minister's
25 committee on AML. And it has a month where the

1 month is incomplete, but it's the 22nd day of
2 some unidentified month in the year of 2019; is
3 that right?

4 A Right.

5 MR. McCLEERY: And, Madam Registrar, can we please
6 move down to page 6 of the document.

7 Q And, Mr. MacLeod, we see here this was prepared
8 by Laura Piva-Babcock of BCLC and Jillian Hazel
9 of GPEB and approved by yourself and
10 Mr. Lightbody; is that right?

11 A That's correct.

12 Q And to your understanding does the fact that
13 this was a joint briefing note reflect that BCLC
14 and GPEB had a common perspective on this issue?

15 A That's correct.

16 Q Okay. Is it typical for BCLC and GPEB to
17 prepare joint briefing notes like this one or is
18 it a little bit unusual?

19 A No. It is fairly usual if the issue impacts
20 both organizations, and we will do a joint
21 briefing note.

22 Q Is that a requirement within the ministry or is
23 it sort of to GPEB and BCLC's discretion?

24 A For the most part it's our discretion.

25 MR. McCLEERY: Turning to -- back to the contents of

1 regulatory perspective it would be a very
2 prescriptive approach to regulation that all
3 UFTs would have to be refused. And there's was
4 a risk there because a UFT can be built around a
5 person appearing nervous as one of the
6 indicators and that's a very subjective -- you
7 know, it's very subject at this on the part of a
8 gaming worker.

9 And then if they were to refuse a UFT --
10 there was some indication too from a human
11 rights perspective whether somebody appearing
12 nervous could be also an indicator of a physical
13 disability or a physical issue, so there was a
14 concern about the human rights side of this
15 thing as well.

16 The other issue that I had with it, it was
17 my concern that it would drive people -- if all
18 UFTs were refused in the first instance because
19 a person was nervous or they appeared to be
20 living beyond their means -- I'm not quite sure
21 what that means, exactly -- that we would refuse
22 them and that could drive people to the
23 underground casino -- illegal casino market.

24 Q This policy has not been implemented; is that
25 right?

1 A No, it was not. This policy eventually -- and I
2 don't think this is the final briefing note on
3 this matter because there's missing information
4 on it as far as that. I believe that the --
5 there was another briefing note that went
6 forward to DMC and that went forward in May, and
7 then in June DMC -- AML DMC approved the current
8 status.

9 Q So to your knowledge this idea is no longer
10 under consideration; is that fair?

11 A No, it's not.

12 MR. McCLEERY: If that could be the next exhibit,
13 please, Mr. Commissioner.

14 THE COMMISSIONER: Yes, very well. That will be -- I
15 think we're at ...

16 THE REGISTRAR: 874, Mr. Commissioner.

17 THE COMMISSIONER: Thank you. 874.

18 **EXHIBIT 874: Ministry of Attorney General, GPEB**
19 **& BCLC Joint Briefing Note - 2019 (redacted)**

20 MR. McCLEERY: Thank you very much. And we can take
21 that down now, please Madam Registrar.

22 Q With that -- a policy of that sort, Mr. MacLeod,
23 alongside the possible implications for money
24 laundering, that type of a measure also has
25 implications for casino revenue. Would you

1 agree with that?

2 A Yes. I mean, that was assessed. It would be a
3 very low impact on casino revenue. I believe
4 the impact would have been about 600,000 in net
5 revenue for the year, which is not a significant
6 amount of money when you consider the amount of
7 money that flows into the casinos.

8 Q I wonder if you can comment generally on your
9 view as to the role that a revenue consideration
10 like that one would play in GPEB's assessment of
11 these kinds of policy changes. Is it something
12 that GPEB closes its mind to or is it a factor
13 that would play into the organization's
14 assessment of those kinds of policy changes?

15 A Yes, it is a factor. As a regulator, our
16 responsibility from a regulator perspective is
17 to promote business in the province, legal
18 business in the province, and that includes
19 licensing and oversight of that business. You
20 can impede business in the province if you have
21 regulatory provisions that are very strict or
22 you overregulate a marketplace. It just drives
23 business away.

24 And so I think as a regulator that's -- and
25 I've looked at that in other regulator roles

1 that I've played, that balance between
2 regulation to make sure that the industry
3 remains safe and legal and overregulating to the
4 point where you're impeding business. So it's a
5 balance.

6 Q The gaming industry is unlike some other
7 regulated industries in that it provides revenue
8 directly to the province. Is it GPEB's role to
9 consider or to attempt to promote or maximize
10 revenue generation by the province?

11 A No, it's not. And when I make that comparison
12 to other regulatory roles that I played, that's
13 the comparison. It's about the regulation
14 itself; it's not about the revenue.

15 Q Thank you. Speaking of the manner in which the
16 industry is regulated, Dr. German recommended
17 the establishment of an independent regulator
18 for the gaming industry; is that right?

19 A He did.

20 Q And I appreciate your role is to manage the
21 existing regulator and not necessarily take
22 responsibility for creating the new one, so I
23 won't ask you about the minutia of progress in
24 that regard, but I wonder if you can just
25 comment on whether you're aware of what the

1 province is actually pursuing -- continuing to
2 pursue the creation of an independent regulator
3 for the gaming industry?

4 A Yes. This idea has gone to cabinet. Cabinet
5 has approved the -- transitioning GPEB from
6 its -- GPEB from what we do now to an
7 independent gambling control office. There will
8 be a certain level of independence not afforded
9 us in our current structure.

10 MR. McCLEERY: Madam Registrar, can we please see
11 BCLC5833.

12 Q Do you see the document on the screen before
13 you, Mr. MacLeod?

14 A Yes, I do.

15 Q And this is a briefing note from GPEB for the
16 decision of Minister Eby and it was prepared on
17 December 5th, 2018, with an issue identified as
18 options for new regulator structure in response
19 to Dr. German's recommendations; is that right?

20 A Yes.

21 MR. McCLEERY: And if we can go to page 6, please,
22 Madam Registrar.

23 Q And here we see this was prepared by Ms. Hazel
24 again and approved by you; is that right?

25 A Yes.

1 Q And do you know if this briefing note was in
2 fact provided to the minister?

3 A Yes, it was.

4 Q Okay. And I'm going to note that portions of
5 this document have been redacted for
6 solicitor/client privilege and public interest
7 immunity. So on the questions that follow I
8 want to be clear I'm not asking you about what
9 advice or recommendations were made in this
10 document or otherwise provided to the minister.
11 I'm just going to ask you about your perspective
12 on these issues.

13 And to begin with, can you offer the
14 Commissioner your perspective as to whether you
15 support the creation of independent regulator to
16 replace GPEB in its current form and why or why
17 not?

18 A Yes, I do. The German recommendation was to
19 create a Crown agency, much like BCLC is a Crown
20 agency. And this was much discussed at the AML
21 DMC on what the policy intent -- or the intent
22 of Mr. German's recommendation was, and it was
23 really about independence of the regulator
24 separating the regulator from the revenue side
25 of -- that we spoke about earlier, about the

1 revenue side of the gaming industry.

2 As it stands now, the regulator is
3 responsible to provide advice to the minister on
4 revenue as well as the regulatory side of
5 revenue issues as well as the regulatory side of
6 this. So the idea was to separate that and
7 create independence from the -- for the
8 regulator arm's length from government, which
9 Mr. German saw as a Crown agency.

10 And again, much discussion at the AML DMC
11 about this and the idea was the independent
12 office that was -- that has been approved will
13 operate at arm's length from government. It
14 will be within the ministry and enjoy the
15 benefits of being within a ministry and whether
16 that's IT support, legal support, corporate
17 support, but it will be independent in the sense
18 that it won't have that revenue side of the
19 gaming industry to deal with it. It will be
20 separated out. The independence will also come
21 through in -- we will be allowed to have our own
22 ADM, our own communications separate from the
23 government communications that currently exist
24 and that we use.

25 So that's the main -- that's the main focus

1 of the independent gambling control office. And
2 there would be a mandate set for this office to
3 ensure that we are -- we have the authority to
4 regulate and a mandate to regulate the whole
5 industry, including BCLC. That currently
6 doesn't exist.

7 Q Do you foresee the creation of an independent
8 regulator advancing or furthering efforts to
9 address the risk of money laundering in the
10 gaming industry?

11 A For sure. Yes, I do. It's a -- you know, the
12 independent gambling control office, the GM or
13 the CO of this office, whatever the case may be,
14 it will not be an ADM appointment. At this
15 current time it's forecasted to be an
16 appointment made by the LGIC, not a minister.
17 So the General Manager would not be part of the
18 executive of the government in the way that the
19 ADM is now.

20 The GM or the CO of that organization would
21 have the authority to set direction and provide
22 directives on things like money laundering. The
23 act -- the new act that we are currently working
24 on or amendments to the *Gaming Control Act* will
25 also have authorities within the -- that act

1 that improves the independence and oversight
2 role of the regulator going forward once those
3 amendments are approved.

4 MR. McCLEERY: Thank you. Mr. Commissioner, if that
5 could be the next exhibit, which I believe is
6 875.

7 THE COMMISSIONER: Yes, very well 875.

8 THE REGISTRAR: Exhibit 875.

9 **EXHIBIT 875: Ministry of Attorney General &**
10 **GPEB Briefing Note re options for new regulator**
11 **structure in response to Dr. German's**
12 **recommendations - December 5, 2018**

13 MR. McCLEERY: And, Madam Registrar, if we can please
14 take that down and if I could have GPEB1550,
15 please.

16 Q Mr. MacLeod, do you see the document on the
17 screen before you?

18 A I do.

19 Q And it looks like you've got hard copies there
20 as well. Have you found the right one in your
21 hard copy?

22 A Yes, I have. Thank you.

23 Q And we have here another GPEB briefing note,
24 this one prepared on October 18th, 2019, for the
25 information of Minister Eby, the issue

1 identified -- establish a more effective and
2 flexible regulatory model for gambling in BC.

3 Is that what you've got?

4 A Yes.

5 Q All right. If you turn to page 5 you'll see
6 that this one was also prepared by Ms. Hazel and
7 approved by you; is that correct?

8 A That's correct.

9 Q Okay. I wonder if you can just maybe speak
10 generally to the purpose of this briefing note.

11 A The purpose of the briefing note was really to
12 move forward with changes to the -- or proposed
13 changes to the act, amendments to the act and
14 explain those in some detail within this
15 document. So this -- you know, it was
16 clarifying -- we talked about clarifying the
17 roles and responsibilities of BCLC and GPEB
18 within the act making those amendments, making
19 the regular -- the regulator BCLC as well and
20 implemented a standards-based model of
21 regulation. And so it provided some background
22 to that and then went into each of those areas
23 in detail.

24 Q The Commissioner has heard some evidence about
25 the issue of a standards based versus a

1 prescriptive model of regulation. I take it
2 from your evidence today you're generally a
3 supporter of a standards based model; is that
4 fair?

5 A Yes.

6 Q I wonder if you can just speak to, generally
7 speaking, your perspective as to why that's a
8 preferable model than a more prescriptive one.

9 A You know, the current model, it would just move
10 away from requiring registrants to follow a very
11 prescriptive set of rules and policies to
12 creating a more overarching, broad outcome-based
13 objectives for the standards that a registrant
14 could then decide the best -- the most effective
15 and efficient way of responding to those
16 outcomes, of meeting those outcomes.

17 So it provides much more flexibility for the
18 industry and much more autonomy for the
19 industry, and we think in some sense it -- that
20 will drive innovation within the industry as
21 well.

22 Q You also mentioned that one of the topics that
23 this document addresses is GPEB becoming a
24 regulator of BCLC. I wonder if you can comment
25 on in more practical terms what exactly that

1 means and the value of that or the -- GPEB's
2 role -- fulfilling its role protecting the
3 integrity of gaming.

4 A Right. Currently the way the act is set up --
5 the act was created in 2002, so it's a fairly
6 old version of the *Gaming Control Act*. And it
7 foresees, I believe, foresees the GPEB and BCLC
8 acting in concert, and there's nothing within
9 that act that provides authority or any real
10 authority for GPEB as a regulator of gambling in
11 the province to regulate BCLC, which was one of
12 the most significant players in the industry.

13 So the idea was to have that oversight over
14 BCLC and be able to issue directives and hold
15 BCLC accountable for those directives as well.
16 So it places the regulator as a true regulator
17 within the whole gambling industry in BC.

18 MR. McCLEERY: Thank you. If that can be the next
19 exhibit, Mr. Commissioner. I believe it's 876.

20 THE COMMISSIONER: Yes. 876.

21 THE REGISTRAR: Exhibit 876.

22 **EXHIBIT 876: Ministry of Attorney General &**
23 **GPEB Briefing note: establish a more effective**
24 **and flexible regulatory model for gambling in BC**
25 **- October 18, 2019 (redacted)**

1 MR. McCLEERY: And, Madam Registrar, if we can please
2 replace that document with MR0183. And again
3 I'll ask that this not be livestreamed because
4 it does include contact information.

5 Q Mr. MacLeod, do you see the document before you
6 and you found it in your hard copies?

7 A No, I haven't. But I see the document before
8 me. So that's --

9 Q Okay. We'll proceed with that, then. So we
10 have yet another GPEB briefing note. This for
11 decision of Minister Eby prepared on
12 October 22nd, 2019, and the issue identified is
13 align an administrative penalty structure to the
14 new regulatory model for gambling in British
15 Columbia; is that correct?

16 A Yes.

17 Q And -- if we look to page 6, Madam Registrar --
18 we'll see again this was prepared by Ms. Hazel
19 and approved by you; is that correct?

20 A That's correct.

21 MR. McCLEERY: Okay. I think we can go back to the
22 top, Madam Registrar.

23 Q I wonder if you can maybe speak generally to the
24 purpose of this briefing note, Mr. MacLeod.

25 A Yeah, if you could make that larger, I would

1 appreciate that. It's kind of -- there.

2 Perfect.

3 I think yes, the purpose of this note was
4 just to bring the act in line with the new
5 powers and authorities of the regulator and to
6 ensure that the industry could be held
7 accountable for those -- the amendments to the
8 act. So it's around the compliance of AGM
9 regulations and standards that condition license
10 and make that an offence -- not an offence, but
11 there would be sanctions for non-compliance as
12 is listed here.

13 MR. McCLEERY: Thank you. If we could go to page 4,
14 please, Madam Registrar.

15 Q Mr. MacLeod, we see in the middle of the page or
16 maybe two thirds of the way down on what's on
17 screen there's a heading that says
18 "Recommendations."

19 A Yes.

20 Q And the first recommendation is:

21 "Amend the Gaming Control Regulation to
22 increase the maximum limit on
23 administrative monetary penalties for
24 service providers to \$200,000."

25 Have I read that correctly?

1 A Yes.

2 Q And I think it says just above that, the
3 first -- or the current or at least at the time
4 of this document the current maximum fine was
5 \$20,000 for service providers; is that right?

6 A That's correct.

7 Q And I think the third bullet point on this page
8 speaks to the purpose of that increase. It
9 says:

10 "The current maximum fines do not provide
11 credible deterrents for corporations that
12 could profit from non-compliance. For
13 example, for the three largest land based
14 service providers, a \$20k fine would
15 represent only 0.007% to 0.030% of their
16 total annual commissions from BCLC. "

17 Have I read that one correctly?

18 A Yes.

19 Q Has this increase in the maximum fine been
20 implemented or is it still under consideration?

21 A It is still under consideration.

22 Q In your view would a \$200,000 maximum fine be a
23 credible deterrent in a way that \$20,000 was
24 not?

25 A It would be more credible for sure.

1 Q Okay. Have you had experiences during your time
2 with GPEB that have led you to believe that a
3 current maximum fine is not sufficiently
4 detering non-compliance, that it may be profit
5 driven?

6 A Not during my time.

7 Q So is it fair to say, then, that there is a
8 hypothetical risk that a service provider who
9 was interested in maximizing revenues for
10 non-compliance might not be deterred by a
11 \$20,000 fine, but you have not seen that in
12 action, so to speak?

13 A That's correct. And I think this was to bring
14 our act more in line with acts across other
15 jurisdictions as well. It's an opportunity that
16 we have the -- we are amending the act, so we
17 are looking at all pieces and parts of the act
18 to ensure that it's up to date and current. And
19 I think when the -- as part of that, the
20 jurisdictional scan was being completed across
21 Canada just to look at other models of
22 regulatory effectiveness and then to determine
23 if we were offside of that and then to bring
24 ours more in line with other jurisdictions.

25 MR. McCLEERY: Thank you. Madam Registrar, if we can

1 go to page 5, please. And maybe scroll down a
2 little bit. That's perfect.

3 Q We see here another recommendation that says:
4 "Amend the GCA to make warnings,
5 compliance plans and administrative
6 monetary penalties applicable to BCLC for
7 non-compliance with applicable GM
8 regulations and standards. Monetary
9 penalties would be in line with corporate
10 registrants."

11 Have I read that correctly?

12 A Yes.

13 Q Am I correct that in essence what this does
14 is -- or would do is permit GPEB to issue fines
15 and other penalties to BCLC in the way that it
16 can to service providers?

17 A That's correct.

18 Q And is that -- fair to say that that's part of
19 what we discussed earlier about GPEB becoming
20 the regulator of BCLC?

21 A Yes.

22 Q In the bullet points under the heading
23 "Implications" the second to last suggests that
24 any fine against BCLC would largely be symbolic.
25 I wonder if you can comment on why this note

1 suggests that fines against BCLC would be
2 symbolic.

3 A Effectively it's the Crown -- BCLC is a Crown,
4 which is an agent of government, so effectively
5 the money -- any money from a fine would be
6 coming out of revenue that would be flowing to
7 government.

8 Q So the government essentially fining itself. Is
9 that --

10 A More or less. That's it.

11 Q You mentioned earlier that your experience with
12 the relationship with BCLC has been very
13 positive. Have there been any instances during
14 your tenure in which you expect you might have
15 used these kinds of measures against BCLC?

16 A No.

17 MR. McCLEERY: If that could be the next exhibit,
18 Mr. Commissioner. I think that's 877.

19 THE COMMISSIONER: Yes, very well. Next exhibit.

20 THE REGISTRAR: Exhibit 877.

21 **EXHIBIT 877: GPEB Briefing Note for decision of**
22 **David Eby - October 22, 2019 (redacted)**

23 MR. McCLEERY: And we can take that document down
24 now, Madam Registrar.

25 Q Mr. MacLeod, you spoke earlier about -- I think

1 trying to address the risk of money laundering
2 through smaller cash transactions through
3 account-based gaming and known play. Have I --
4 is that correct?

5 A Yes.

6 Q Brad Desmarais of BCLC has given evidence before
7 the commission in which he described a vision --
8 I'm paraphrasing here -- but a vision of
9 100 percent account-based cashless play. Is it
10 fair to say from your evidence earlier on that
11 you would -- well, maybe I'll first ask you.
12 Has GPEB been involved in discussions with BCLC
13 about moving towards that type of model?

14 A Yes, we have.

15 Q Okay. And is it something that GPEB supports?

16 A Yes, we do.

17 Q Are you able to speak to sort of what needs to
18 happen to bring that vision into reality? What
19 are the steps along the path that the industry
20 needs to take to get there?

21 A I think the biggest one from a BCLC perspective
22 is the technology that would be required to
23 implement that, and then the consultation that
24 would be required. Because it's -- it would be
25 a significant change in the industry to go from

1 source of funds declarations for those who try
2 to buy in or attempt to buy in at 10,000 or more
3 to having an account-based regime for all
4 players so that all players would be known. So
5 there would be a fair amount of obviously public
6 consultation and consultation on that issue
7 before it could be implemented.

8 Q And what, if any, role does GPEB play in the
9 process of bringing that reality to -- or that
10 vision to reality?

11 A It would be really around the policies, to
12 review the policies around that and the
13 requirements for that as well as look at the
14 technology, certify the technology that would be
15 used to facilitate that happening.

16 Q And are those discussions at a stage where any
17 kind of a timeline has been established or how
18 long it might take to bring that
19 to [indiscernible].

20 A No.

21 Q Okay. We spoke earlier about the role that
22 revenue considerations play in decision making,
23 the limited role that revenue considerations
24 might play in decision making by GPEB. Is --
25 the potential revenue implications of this shift

1 for the industry, is that a factor that you
2 would expect might slow the pace at which it
3 could be adopted?

4 A I haven't considered that, no.

5 Q I want to ask -- move now and speak a little bit
6 about information sharing. The Commissioner has
7 heard evidence from a number of witnesses and
8 different sectors about the value of information
9 sharing efforts to combat money laundering. I
10 want to ask you about whether enhanced
11 information sharing might benefit GPEB in its
12 efforts to address money laundering.

13 I wonder if I can just begin by asking you
14 whether there are sources of information that
15 you can identify that would be of use to GPEB in
16 its efforts to address money laundering in the
17 gaming industry that you do not currently have
18 access to?

19 A There are two sources. The first is FINTRAC.
20 We have an MOU with FINTRAC. We provide them
21 information on anything to do with money
22 laundering or terrorist financing. So our
23 source of funds audit, for example, would be
24 part of that disclosure to FINTRAC. And they
25 disclose to us -- if they come into BC and they

1 do an audit of a particular service provider and
2 there's findings from that and the followup to
3 that, they would provide that to us.

4 But GPEB as a regulator cannot have access
5 to FINTRAC intelligence. So we can't make the
6 same requests that police agencies can make, nor
7 can we get information from FINTRAC directly in
8 regards to anybody operating within BC that we
9 deal with as a regulator.

10 Q And the information that would be of assistance
11 from FINTRAC is that -- FINTRAC -- the type of
12 disclosures FINTRAC makes to law enforcement
13 following their analysis or raw data that's in
14 the form that's reported to FINTRAC?

15 A I think it would be both. The raw data, and
16 that would be a request -- we would make a
17 request for data on -- well, in FINTRAC. A
18 specific request. Or get that raw material on a
19 BC perspective provided to the regulator.

20 Q As a law enforcement agency, JIGIT would have
21 access to FINTRAC, at least FINTRAC disclosures;
22 is that right?

23 A That's correct.

24 Q And is there something in place that prevents
25 GPEB from accessing that information that's

1 provided to JIGIT?

2 A We -- our investigators within JIGIT, the GPEB
3 investigators within JIGIT would be privy to
4 that information or -- as part of their role.
5 But it's secondhand for us as a regulator. It's
6 kind of a secondhand information flow.

7 Q And I think you mentioned there was a second
8 potential source of information that would be of
9 assistance to GPEB?

10 A Yes, I believe that we should be able to share
11 information between regulators in BC. There's a
12 number of regulators involved in BC that have
13 common individuals or individuals that pop up
14 throughout these regulatory regimes, and it
15 would be excellent to be able to share that
16 information.

17 Q And are there particular regulators that you
18 have in mind?

19 A I think the -- not particularly, no.

20 Q Maybe you can just elaborate on what it is that
21 prevents GPEB from sharing that information at
22 this stage.

23 A For the most part it's the *Privacy Act* and the
24 limitations around the *Privacy Act* and sharing
25 personal information between regulators.

1 Q Thank you. Before I conclude, I want to just
2 make sure you have an opportunity to speak to
3 any other changes or enhancements to GPEB or the
4 context in which it operates that might assist
5 in your efforts to address the challenge of
6 money laundering in the gaming industry. Are
7 there any changes to GPEB's resources or mandate
8 or really anything else at all that you can
9 identify that would assist you in your efforts
10 to address this problem in your industry?

11 A No. I think we've just covered them off, the
12 ones that I would have suggested.

13 MR. McCLEERY: Okay. Well, thank you for much for
14 answering my questions, Mr. MacLeod.

15 Mr. Commissioner that concludes my
16 examination of this witness.

17 THE COMMISSIONER: Thank you, Mr. McCleery.

18 I'll now call on Mr. Smart on behalf to
19 have the British Columbia Lottery Corporation,
20 who has been allocated 20 minutes

21 MR. SMART: Thank you.

22 **EXAMINATION BY MR. SMART:**

23 Q Mr. MacLeod, you've just said that you have been
24 in consultation with BCLC about moving towards
25 an account-based cashless gaming regime. And

1 you're supportive of that?

2 A Yes.

3 Q As you may be aware, gaming in British Columbia
4 was entirely cash based up until 2009. Are you
5 aware of that?

6 A No.

7 Q Okay. It seems -- if I'm right about that and
8 the commission's heard that, in a dozen years
9 we've moved from nothing but cash to attempting
10 to institute a regime that is no cash. That
11 seems like a pretty profound evolution of gaming
12 in this province. Do you agree with that?

13 A I do.

14 Q Yeah. The E&Y report that you mentioned,
15 Mr. MacLeod, was commissioned because of media
16 reports. Is this your understanding? Media
17 reports that players, patrons were coming in
18 with large amounts of cash, playing very little
19 and then cashing out and getting cheques?

20 A That's my understanding.

21 Q Yes. And what that E&Y report demonstrated is
22 that wasn't accurate. The media reports weren't
23 accurate. Do you agree with that?

24 A I do.

25 Q And do you agree that it's important that the

1 gaming industry not only be socially
2 responsible, but it be seen by the public to be
3 socially responsible?

4 A Absolutely.

5 Q So that E&Y report had a benefit, didn't it, of
6 providing some evidence, information to the
7 public that the concerns raised by the media
8 were inaccurate, do you agree with that?

9 A Yeah. What I would say to that is that I came
10 into this portfolio, and that had been work that
11 had been done back in 2014 and 2017 -- as a
12 review of that in 2017. I wasn't aware when I
13 had the meeting with EY -- I was invited to that
14 meeting. I wasn't aware of the full background
15 of that, and then I attended that meeting and
16 the results are the results that you just
17 mentioned, that there was no indication that
18 that was occurring in the casino, in River Rock
19 Casino. And yes, I would agree that that would
20 have been -- that the information is important
21 to the public to understand.

22 Q You could understand why staff at BCLC might be
23 frustrated by inaccurate media reports such as
24 those that were happening?

25 A Yes.

1 Q Yes. You've given some evidence about your
2 relationship with BCLC since you assumed your
3 responsibilities almost three years ago. And I
4 understand that it's -- I would -- you're
5 describing it in my words as a healthy,
6 respectful relationship between the two
7 organizations?

8 A Yes.

9 Q Good communication?

10 A Excellent.

11 Q And you're supportive of the initiatives that
12 BCLC has been discussing with you about
13 implementing in the future?

14 A Yes.

15 Q And although you now have the power to issue
16 directives, you see no need to do that because
17 of the level of communication and cooperation
18 between the two organizations?

19 A That's correct.

20 Q The initiative -- the dedicated enforcement
21 unit, was it Mr. Skrine that recommended that,
22 or was it in consultation with you? How did
23 that new unit evolve, Mr. MacLeod?

24 A It was a combination of those things. I was
25 concerned that we didn't have a dedicated

1 enforcement unit after I read the German report
2 and got to know the structure of GPEB. It
3 seemed to me to be a hole in our regulatory
4 response, so I had that discussion with Cary
5 Skrine when I tasked him with looking at our
6 structure and just determining what would be the
7 best structure to have that proactive enhanced
8 enforcement response available within the
9 industry.

10 Q Did you have to make any changes to the powers
11 to your investigators to set up this unit and
12 have them going to casinos?

13 A Didn't change the powers. They had Special
14 Provincial Constable powers as I mentioned
15 earlier, and they have their -- they are
16 designated as investigators under the *Gaming*
17 *Control Act*. What they lacked, I believe, was
18 the mandate and the direction on what -- how
19 they were to investigate within casinos.

20 Q We heard from Mr. Skrine that in fact they won't
21 just be working 9:00 to 5:00, they'll be going
22 in in the evenings when the casinos are
23 operating and taking the other steps that you've
24 mentioned. Those are all initiatives that you
25 support?

1 A Yes.

2 Q Okay. You've mentioned briefly about the
3 Ontario gaming regime, if I can put -- how they
4 regulate gaming, and you spent some time there.
5 I don't know if you have seen -- had an
6 opportunity to read the Auditor General of
7 Ontario's review that was dated December of
8 2020, their audit of the role that the police
9 are performing in gaming -- in casinos in
10 Ontario. Have you had an opportunity to review
11 that?

12 A I have.

13 MR. SMART: Okay. Mr. Commissioner, I just -- I want
14 to just ask him for -- if he has any comments
15 about this review by the auditor. I only gave
16 notice of it on Friday. It's not a -- it's
17 entitled "Alcohol and Gaming Commission of
18 Ontario." So I'm seeking leave to ask
19 Mr. MacLeod whether he has any observations
20 about that review.

21 THE COMMISSIONER: All right. Any position on that,
22 Mr. McCleery?

23 MR. McCLEERY: No. No position, Mr. Commissioner.

24 THE COMMISSIONER: All right. All right. Mr. Smart,
25 you may proceed.

1 MR. SMART: Thank you. I wonder if that could be put
2 up on the screen. Thank you, Madam Registrar.

3 Q I'll just take you to the -- you'll see it's
4 December 20 -- it's the Office of the Auditor
5 General of Ontario. And if I take you to the
6 first page, please, under "Summary." And on the
7 paragraph, top paragraph on the right side where
8 it says:

9 "At the time of our audit, the AGCO --"
10 Which is the Alcohol and Gaming Commission of
11 Ontario:

12 "-- had identified money laundering as a
13 major risk in casinos and recognized it
14 had gaps in its regulatory processes, but
15 it had not developed a plan to address
16 those gaps. Further, Ontario Provincial
17 Police (OPP) officers assigned to the AGCO
18 to investigate potential money laundering
19 exclude few patrons from Ontario casinos."

20 And it goes on -- I'll just go over two pages
21 under "Money Laundering in Casinos." It notes
22 that:

23 "While suspicious transactions reported in
24 Ontario casinos are increasing,
25 enforcement by the OPP officers working

1 for the AGCO has been limited. From 2017
2 to 2019, casinos submitted over 9,700
3 Suspicious Transaction Reports in total,
4 involving almost 4,800 individuals."

5 I'll drop down a few lines. "The amounts being
6 wagered," where it continues:

7 "Over this three-year period, the number
8 of Suspicious Transaction Reports
9 increased by 19% to 3,722 and the value of
10 suspicious transactions doubled to
11 \$340 million. Despite having 67 OPP
12 officers positioned in casinos to oversee
13 gaming integrity and to investigate
14 potential money laundering activities, few
15 charges were laid, low amounts of cash
16 were seized, and few people were barred
17 from casinos."

18 I won't trouble you by going on. There's
19 further analysis and criticism.

20 Does that -- I know you spent -- you've told
21 the commission you spent some time in Ontario.
22 Does that surprise you what the auditor found in
23 terms of how police were regulating money
24 laundering, suspicious transactions in Ontario
25 casinos?

1 A It does.

2 Q All right. There's -- reading this doesn't sort
3 of reenforce that we should adopt the Ontario
4 model, does it?

5 A No.

6 MR. SMART: All right. Those are my questions.
7 Thank you, Mr. Commissioner.

8 And I seek to have -- I expect that this may
9 be entered -- would be entered, in any event,
10 when we look at other jurisdictions, but I'd
11 seek to have this marked at this time.

12 THE COMMISSIONER: Yes, very well, Mr. Smart. That
13 will be our next exhibit.

14 THE REGISTRAR: Exhibit 878, Mr. Commissioner.

15 **EXHIBIT 878: Office of the Auditor General of**
16 **Ontario, Value-for-Money Audit: Alcohol and**
17 **Gaming Commission of Ontario - December 2020**

18 THE COMMISSIONER: Thank you. I'll turn now to
19 Mr. Skwarok on behalf of Great Canadian Gaming
20 Corporation, who has been allocated 10 minutes.

21 MR. SKWAROK: Thank you, Mr. Commissioner.

22 **EXAMINATION BY MR. SKWAROK:**

23 Q Sir, you gave evidence about a meeting that you
24 attended with Terrance Doyle, Rod Baker and the
25 minister regarding the German report. Do you

1 recall that?

2 A Yes.

3 Q And were you able to form any opinion as to
4 their willingness to comply with the
5 recommendations in that report?

6 A They were very willing to comply.

7 Q After this meeting with the people I just
8 mentioned, did you work at all with senior
9 management of Great Canadian?

10 A Yes, I did.

11 Q And who in particular did you work with?

12 A Terrance Doyle.

13 Q All right. Can you characterize the general
14 nature of the interactions between you and
15 Mr. Doyle?

16 A They are excellent and they continue excellent
17 to this day.

18 Q What types of subject matter were you two
19 dealing with?

20 A In the later days we had been dealing a lot with
21 horse racing and the acquisition of Great
22 Canadian [indiscernible]. And prior to that
23 some of the anti-money laundering initiatives
24 ongoing in casinos with the enhanced enforcement
25 response.

1 Q How did you communicate with Mr. Doyle? Was it
2 primarily meetings or emails or phone calls?

3 A Typically it's phone calls.

4 Q Did you have any meetings with him subsequent to
5 the meeting with the minister?

6 A Yes. I've had meetings with him in the BCLC
7 offices when we were discussing the German
8 recommendations and how to move forward with the
9 German recommendations.

10 Q And did you find that you could work quite
11 constructively with Mr. Doyle?

12 A Yes.

13 Q Did you form an opinion of Mr. Doyle's
14 willingness to improve anti-money laundering
15 policies and to do what was necessary to get the
16 job done?

17 A Yes. I found -- and I find Terrance Doyle to be
18 very cooperative and collaborative in the
19 approach to money laundering.

20 Q All right. Thank you. You testified that in
21 2018 there were -- there was a significant
22 failure to comply with certain BCLC requirements
23 on source of funds. Do you recall that?

24 A Yes.

25 Q And primarily this included failure to provide

1 receipts for bank drafts and failure to provide
2 bank account numbers; correct?

3 A Yes.

4 MR. SKWAROK: Madam Registrar, could you kindly bring
5 up exhibit 530, please. It's the affidavit of
6 Patrick Ennis.

7 THE COMMISSIONER: I don't think that's what you're
8 looking for, Mr. Skwarok, is it?

9 THE REGISTRAR: Sorry, I think I was provided with
10 the specific exhibits Y and Z from this, but I
11 will get the affidavit.

12 MR. SKWAROK: Yes, the exhibits, I think, are -- that
13 you referred to, Madam Registrar, are correct,
14 exhibits Y and Z, but they're to the affidavit
15 of Mr. Ennis.

16 THE REGISTRAR: Yes.

17 MR. SKWAROK: Which I believe was 530. Maybe we can
18 return to that later. But the important things
19 are those two exhibits that were mentioned by
20 the registrar, exhibits Y and Z to Mr. Ennis's
21 affidavit.

22 Madam Registrar, could you please bring up
23 exhibit Y.

24 THE COMMISSIONER: Do you see that? I have it on my
25 screen now, Mr. Skwarok.

1 MR. SKWAROK: Sorry, sir, which one? The whole
2 affidavit, or ...

3 THE COMMISSIONER: No, I have Y now.

4 MR. SKWAROK: Okay. Good.

5 Q Have you seen this document before, sir? Just
6 take a quick review of it. I don't want to
7 force you to give evidence too quickly.

8 A I don't have a hard copy of that document.

9 Q All right. But you have an electrical one?

10 A I would have seen that document.

11 Q And if you -- this is a document that's dated
12 October 29th, 2018, and it's a draft GPEB report
13 on non-compliance with the source of funds.

14 A Okay. I've got that.

15 Q Thank you. Now, if you can go to the third
16 page, please.

17 A Okay.

18 Q And I don't want to spend a lot of time on this,
19 but there's reference on this page to the two
20 areas of concern that were found in this draft
21 report. And the first one is:

22 "A review -- "

23 Point number 1. Do you have that?

24 A Yes.

25 Q "A review of 63 bank drafts identified

1 that for 70% of the drafts, the bank
2 account information on the Source of Funds
3 Declaration ... was either incorrectly
4 documented or not documented ..."

5 And do you see that?

6 A Yes.

7 Q And below that for 41 of the 63 bank drafts
8 reviewed, the serial number and account number
9 weren't provided.

10 A That's correct.

11 Q And if you go to the next paragraph that's
12 entitled "GCGC response." Do you see that?

13 A Yes.

14 Q And there's the GPEB staff member -- did you
15 draft this or was it one of your staff members?

16 A I wouldn't have drafted this.

17 Q All right. If you go to that point I was just
18 referring to, GCGC response:

19 "In accordance with BCLC [source of funds
20 training] the draft number is redeemed to
21 be sufficient. Refer to: Appendix B -
22 slide #14 ..."

23 Do you see that?

24 A Yes, I do.

25 Q And in the next paragraph there's a reference to

1 a large number of bank drafts that were put into
2 the system without reference to a bank receipt.

3 Do you see that?

4 A Yes.

5 Q And again, below that is the Great Canadian
6 response:

7 "In accordance with BCLC's [source of
8 funds/reasonable measures training] and
9 the BCLC bank draft clarification email,
10 the draft acts as the receipt and is
11 deemed to be sufficient."

12 Do you see that?

13 A Yes.

14 Q And if you go to the last page of the document.
15 And it's hard copy 695 in the top right corner.
16 Let me know, Mr. MacLeod, when you find it. Or
17 when it is brought to your attention.

18 A Yeah, this is a different version than the one I
19 have in hard copy here.

20 Q Okay. Well, in any event -- which version do
21 you have?

22 A The version I have does not have the inputted
23 comments from ...

24 Q Well, that's --

25 A Unless I'm looking at the wrong --

1 Q Well, it should do, exhibit Y to Mr. Ennis's
2 affidavit.

3 A Can you give me a moment?

4 Q Absolutely. Sorry about that.

5 A I'm sorry, I don't have that, and I was
6 wondering if I can use the one on the screen
7 to --

8 Q Absolutely. Absolutely.

9 A Thank you.

10 MR. SKWAROK: Madam Registrar, could you kindly help
11 the witness.

12 THE REGISTRAR: I'm on page 695, the handwritten
13 number.

14 MR. SKWAROK: That's correct.

15 Q Do you see that, Mr. MacLeod?

16 A I'm only seeing a slide with two appendices
17 noted.

18 Q Right. And these two slides are appendices
19 referred to -- the document that were provided
20 in Great Canadian's response to the draft.
21 Unfortunately in the copy we were provided by
22 the commission, the documents themselves, the
23 appendices aren't included.

24 Do you recall whether you would have read
25 these appendices, including the BCLC PowerPoint?

1 draft itself could be considered to be a
2 receipt ..."

3 Now, in fairness, you don't have that document,
4 and you likely didn't receive it. And you
5 didn't receive it when you -- after receiving
6 this November 28th letter; is that right?

7 A No, I've read this letter, though, but I've not
8 received that document.

9 Q Yeah. Did you read the email from -- that I
10 referred to that was authored by Mr. Tottenham?

11 A No, I did not.

12 Q All right. If I could take you, please, to the
13 next page. Hard copy 697 at the top. Thank
14 you.

15 "On May 15, 2018, BCLC issued a document
16 called 'Reasonable Measures 10K SOF
17 Reporting Bank Draft/[Patron Gaming Fund]
18 Changes' attached as Appendix A."

19 Now, do you recall reading that document?

20 A I don't.

21 Q Let me continue.

22 "This document - in power point form - was
23 used by BCLC in its training programs for
24 [Great Canadian] staff on [source of funds
25 declarations]. At [page] 14 the document

1 states that in February 2018 --"
2 That is the month after the BCLC policy
3 directive to which you referred to.
4 "BCLC policies on bank drafts were
5 updated. BCLC stated that the new policy
6 was that the receipt requirement could be
7 satisfied by the bank draft itself if it
8 contained a bank draft serial number. If
9 it did, there was no additional
10 requirements that the bank draft (or a
11 separate receipt) had to include the
12 patron's bank account number. This
13 information was repeated verbatim in
14 training materials of the same title dated
15 July 9, 2018. All of the bank drafts
16 reviewed by GPEB in August complied with
17 these new receipt requirements."

18 Do you see that?

19 A Yes, I see that.

20 Q All right. And in fairness to you, you haven't
21 read the document, but working on the assumption
22 that this May 15th, 2018 BCLC document in fact
23 says what Mr. Ennis says it said, would you
24 agree that GPEB shouldn't have any concerns
25 about lack of receipts or lack of account

1 numbers if the bank draft itself contained that
2 information?

3 A Yeah, I think I spoke about this earlier, but
4 the issue was we completed an audit in -- our
5 compliance unit did an audit in the -- going
6 into the early fall of 2018, which was the first
7 audit for source of funds. And there was
8 significant non-compliance, not only in relation
9 to bank draft numbers being used as opposed to a
10 bank account number, there were other issues
11 that were raised in those compliance audits.
12 And our compliance folks would have spoken to
13 GCGC compliance folks about the findings of that
14 audit.

15 The second audit was conducted in the fall,
16 again of 2018, and it was a result of the second
17 audit that I wrote the letter to Mr. Ennis
18 that -- and this is his response back to me.

19 We were aware that there was an issue with
20 the direction provided by BCLC to service
21 providers around this issue, and a letter was
22 written to BCLC that in my response to Mr. --
23 this letter to Mr. Ennis I referenced, that we
24 had written to BCLC about the lack of -- or the
25 information that they had provided was

1 incorrect. And --

2 Q I beg your pardon, sir. Which information?

3 Who's the "they"?

4 A Okay. Sorry. The information that the BCLC

5 provided around the bank draft number as opposed

6 to the account.

7 Q Right.

8 A Bank account number.

9 Q Right. And you said that that --

10 A So --

11 Q Go ahead.

12 A Sorry.

13 Q No, you go ahead.

14 A We had worked with BCLC on that issue.

15 Q All right.

16 A Sorry, can you not hear me?

17 Q I can. There's a bit of a delay at my end, so I

18 apologize if I'm interrupting you. But you'll

19 agree that as far as BCLC dictates to Great

20 Canadian, if the document that I've averted to,

21 that PowerPoint presentation says what I say it

22 says, then the company would have been in

23 compliance with the BCLC rule; correct?

24 A The company would have been in compliance with

25 the BCLC rule as they had it in May as you

1 indicated, but they changed that rule in
2 September to make it very explicit within their
3 policy that bank draft numbers were not to be
4 used but bank account numbers had to be used.

5 Q And what was -- I beg your pardon.

6 A Sorry.

7 Q In September that was made clear, but wasn't the
8 audit with respect to August bank drafts?

9 A No. The audit -- the second audit that took
10 place took place in November of 2018, so it was
11 past the date -- the second audit was past the
12 date when BCLC revised their policy, and that
13 was the reason for the letters to the service
14 providers. It wasn't only about the bank draft
15 information; it was about the fairly significant
16 non-compliance in various areas of the source of
17 funds.

18 Q Just so I'm clear, the December 28th letter from
19 Mr. Ennis to you refers to the August 18th bank
20 drafts that we looked at, not the November ones.

21 A I can't rationalize this because the letters
22 that I wrote to Mr. Ennis that he's referring
23 here -- referencing here -- or the letter that I
24 wrote to him that he's referencing was as a
25 result of a second audit or the source of funds,

1 documents, particularly when you hadn't seen
2 them. But thanks for your cooperation. Those
3 are my questions.

4 THE COMMISSIONER: Thank you, Mr. Skwarok.

5 I'll turn now to Mr. McFee on behalf of
6 James Lightbody, who had been allocated
7 15 minutes.

8 **EXAMINATION BY MR. McFEE:**

9 Q Mr. MacLeod, you gave evidence this morning
10 about when you joined GPEB, which I believe was
11 at the end of July 2018. You then proceeded to
12 go through an orientation process?

13 A Yes.

14 Q And as part of that orientation process you
15 mentioned in answer to Mr. McCleery's questions
16 you met with my client, Jim Lightbody, who was
17 the president and CEO of BCLC?

18 A Yes.

19 Q And did you find Mr. Lightbody to be welcoming
20 and prepared to answer any inquiries you had
21 about BCLC and the gaming industry?

22 A Yes.

23 Q And I take it from your evidence that you and
24 Mr. Lightbody formed and enjoy a positive
25 collaborative working relationship?

1 A Yes.

2 Q Now, just in terms of timing, you joined GPEB
3 just after the public release of Dr. German's
4 first report. Do I have that right?

5 A Yes.

6 Q And so you would have reviewed Dr. German's
7 report in some detail, I take it, would you?

8 A Yes.

9 Q And Mr. McCleery in his questions to you
10 referenced Dr. German's comments on the
11 relationship between BCLC and GPEB as set out in
12 Dr. German's report. Do you remember those
13 comments in Dr. German's report?

14 A For the most part, yes.

15 Q And in fact Dr. German in that report devoted a
16 chapter to it, "Chapter 22: A Testy
17 Relationship." Do you recall that?

18 A Yes.

19 Q And Dr. German's words were:

20 "Relationships between BCLC and GPEB are
21 at best strained and at worst broken. The
22 issues tend to be most pronounced at the
23 management level and within the compliance
24 and enforcement areas."

25 Now, obviously you were at the management level.

- 1 A Yes.
- 2 Q And Mr. Lightbody was obviously at the
3 management level in BCLC; correct?
- 4 A Yes.
- 5 Q And I take it from your evidence that your
6 experience coming almost immediately after the
7 release of the Dr. German's report was quite
8 different from what Dr. German describes.
- 9 A Yes.
- 10 Q And in fact in your review of GPEB and BCLC's
11 relationship, you found the two entities enjoyed
12 a very positive collaborative relationship?
- 13 A Yes.
- 14 Q And that, as I understand your evidence,
15 continues through to today?
- 16 A Yes.
- 17 Q Sorry, yes?
- 18 A Yes.
- 19 Q Okay. Thank you. And in that context, if I
20 could ask Madam Registrar to bring up GPEB
21 document 1464, please. Yes. This is a
22 December 4th, 2018 letter from you to
23 Mr. Lightbody. Do you have that?
- 24 A That's correct. I do.
- 25 Q And so this is relatively early in your tenure

1 with GPEB, obviously?

2 A That's correct.

3 Q And in the first paragraph you say:

4 "I am writing in response to the
5 November 2, 2018 memo the [BCLC's AML]
6 unit shared with Gaming Policy and
7 Enforcement Branch ... The memo presents
8 an amended policy aimed at better
9 addressing risks of money laundering in
10 gambling facilities by reducing the
11 threshold for ascertaining customer
12 identity from \$9000 to \$3000."

13 And that's one of the initiatives you mentioned
14 in your responses to Mr. McCleery; correct?

15 A That's correct.

16 Q And that's an initiative that you support?

17 A Yes.

18 Q And importantly in the second paragraph you say:

19 "I would like to thank you for the
20 opportunity to review the proposal and
21 provide feedback. I appreciate BCLC's
22 efforts to be responsive to ever-changing
23 risks align with international standards.
24 GPEB supports this initiative, and I would
25 appreciate BCLC keeping GPEB apprised of

1 any improvements or implications related
2 to the implementation of this new policy."

3 And so that statement that you make to
4 Mr. Lightbody is, I guess, demonstrative of the
5 type of relationship that you enjoyed with
6 Mr. Lightbody?

7 A Yes, it is.

8 Q Now, as we heard in your evidence, you were a
9 member of the AML deputy minister's committee?

10 A Yes, I was.

11 Q Yes. And you in fact were one of the initial
12 members of that committee, weren't you?

13 A Yes.

14 Q And that committee was formed to consider and
15 where appropriate implement the recommendations
16 of Dr. German's -- initially at least his first
17 report; correct?

18 A That's correct.

19 Q And Mr. Lightbody was also a non-voting member
20 of that committee, is that accurate?

21 A Yes.

22 Q And from your observations was Mr. Lightbody an
23 active and engaged member of the committee?

24 A Yes.

25 Q Do you recall that Mr. Lightbody made

1 presentations to the committee respecting BCLC's
2 AML regime and proposed enhancements to that
3 regime?

4 A Yes.

5 Q And those were useful presentations from your
6 perspective?

7 A Yes.

8 Q And do you recall that Mr. Lightbody made
9 presentations with respect to the implementation
10 of Dr. German's recommendations where BCLC was
11 the designated agency to implement those
12 particular recommendations?

13 A Yes.

14 Q And did Mr. Lightbody also make presentations to
15 the committee with respect to options to
16 consider that may assist in enhancing a robust
17 AML regime in British Columbia's gaming
18 industry?

19 A Yes.

20 Q And to be clear, and you -- just so I understand
21 it, you reference this in your answers to
22 Mr. McCleery's questions. Although the
23 government accepted Dr. German's
24 recommendations, that acceptance was in
25 principle. And is it fair to say the government

1 and the committee didn't see its role as
2 slavishly following Dr. German's recommendations?

3 A That's correct.

4 Q Rather is it accurate that the committee saw its
5 role as to consider whether all or some of
6 Dr. German's recommendations should be
7 implemented and importantly consider other
8 options to enhance BC's AML regime?

9 A That's correct, yes.

10 Q Now, in the context of not slavishly following
11 Dr. German's recommendations, do you recall that
12 in its review of Dr. German's March 2018 report
13 the view was expressed by certain committee
14 members that Dr. German's report was largely
15 anecdotal and not sufficiently engaged in
16 historical fact finding?

17 A I don't recall that, no.

18 Q Did you have the view that Dr. German's review
19 was large anecdotal and in particular there was
20 very little data analysis to support the
21 conclusions reached in that report?

22 A I would agree there was little data to support
23 some of the conclusions within the report.

24 Q Do you recall that view being expressed by
25 committee members that there was a lack of data

1 to support the recommendations and the findings?

2 A That may have been expressed. I can't recall
3 that.

4 Q Now, in the context of other options to enhance
5 BC's AML regime, do you recall that under
6 Mr. Lightbody's leadership it was fairly early
7 in your time at GPEB that this proposal was put
8 forward to pursue a cashless account-based
9 regime within BC casinos?

10 A Yes, I recall Mr. Lightbody presenting on that,
11 but I don't recall the exact day.

12 MR. McFEE: We can probably help you with a document,
13 then. If I could ask Madam Registrar --
14 actually, sorry, before we take down this other
15 document, the December 4th letter, could we have
16 that marked as the next exhibit, please,
17 Mr. Commissioner.

18 THE COMMISSIONER: Yes, that's fine.

19 THE REGISTRAR: Exhibit 879.

20 **EXHIBIT 879: Letter from Sam MacLeod re Source**
21 **of Funds Declaration Identification Threshold -**
22 **December 4, 2018**

23 MR. McFEE: Then if I could ask Madam Registrar, when
24 you get a moment, to bring up BCLC0005783.

25 Q You'll see these are minutes of the deputy

1 minister's committee on AML. Do you have that?

2 A I have the agenda, yes.

3 Q Right. Sorry. Yes, you're right, it's the
4 agenda. It's for Thursday, May 2nd, 2019?

5 A That's correct.

6 Q And if you could go down to the agenda, and you
7 see item number 3?

8 A Yes.

9 Q You see "Briefing: Account Based Cashless
10 Gambling and AML Enhancements - Jim"?

11 A Yes.

12 Q That would be a presentation made by
13 Mr. Lightbody?

14 A Yes.

15 Q So just in terms of refreshing your
16 recollection, this concept of account-based
17 cashless gambling came before the committee as
18 early as May of 2019?

19 A That's correct.

20 Q And as I understood your evidence, that concept
21 is still a work in progress and still being
22 considered by the committee?

23 A It's still being considered by BCLC, I believe.

24 MR. McFEE: Could we have that marked as the next
25 exhibit, please, Mr. Commissioner.

1 THE COMMISSIONER: Yes, that's fine.

2 THE REGISTRAR: Exhibit 880.

3 **EXHIBIT 880: Deputy Minister's Committee on**
4 **Anti-Money Laundering meeting minutes - May 2,**
5 **2019**

6 MR. McFEE:

7 Q Now, did you consider this concept of
8 account-based cashless gambling to be a
9 proactive positive approach by BCLC to
10 ultimately eliminating illicit cash from
11 entering BC casinos?

12 A Yes.

13 Q I just want to turn for a moment to the
14 implementation of Dr. German's interim
15 recommendation on source of funds.

16 A Yes.

17 Q And although you weren't with GPEB at the time,
18 did you come to learn that Dr. German's interim
19 recommendations were released in the first week
20 of December 2017?

21 A Yes, I believe that was the date.

22 Q Right. And in answer to your questions to
23 Mr. McCleery, you talked about the outcome and
24 success of this statement of funds -- source of
25 funds declaration having impact by reducing the

1 suspicious cash transaction and large cash
2 transactions. Did I understand you correctly?

3 A Yes.

4 Q Now, as you became more familiar with the gaming
5 industry and your role in GPEB, did you become
6 aware of the time frame when large cash buy-ins
7 at Lower Mainland casinos peaked?

8 A Yes, but I can't recall the date exactly. I had
9 seen charts on that, but I can't recall the date
10 when it peaked.

11 Q The commission's seen more than one chart on it,
12 and it seems to be the peak was in the summer of
13 2015. Does that match with your recollection?

14 A It is somewhere around that time period. I know
15 that BCLC implemented source of cash
16 requirements on some players at that time that
17 had an impact on the large cash transactions as
18 well.

19 Q Right. And -- precisely. That's my question.
20 You've anticipated where I was heading. Did you
21 come to learn what the impact of BCLC's source
22 of funds cash conditions program had on
23 suspicious cash transactions and large cash
24 transactions in BC casinos before Dr. German's
25 report ever came out?

1 A Yes. If I recall the charts correctly, it
2 peaked prior to that. And there was a downward
3 trend from that time until the source of funds
4 initiative was implemented and continued the
5 downward trend.

6 Q And did you learn when you looked at those
7 charts and from the information you received
8 that it was quite a steep decline after BCLC
9 introduced this cash conditions source of funds
10 program in September of 2015?

11 A Yes. I believe it was a gradual decline until
12 source of funds, and the decline continued.

13 Q I just want to ask you a few questions about the
14 evidence you've given respecting the audits that
15 were undertaken by GPEB to determine the
16 compliance with the implementation of
17 Dr. German's source of funds declaration.

18 A Right. Yes.

19 Q In addition to the GPEB audits, did you become
20 aware that BCLC on its own initiative in early
21 October 2018 had engaged Deloitte's to monitor
22 the source of funds declaration compliance by
23 service providers?

24 A Yes, I was aware of that.

25 Q And did you view that as BCLC undertaking

1 Ms. Fitzgerald confirmed to you that Mr. Kroeker
2 had communications with her about these
3 proposals, but she had deemed this to only be an
4 informal reach-out; correct?

5 A Yes.

6 Q Was it your understanding that there was a
7 formal process, then, or channel for this to be
8 done at that time?

9 A Yes.

10 Q And what was that formal process?

11 A That their request would come into our policy
12 unit within GPEB and typically that process
13 would be that the policy unit would take that
14 information and share it out amongst the GPEB
15 divisions and get feedback and then provide
16 advice, if required, up to the minister.

17 Q So you believe that prior to that point in time
18 GPEB's policy division would opine on these
19 types of proposals?

20 A That's correct.

21 Q And not simply GPEB's compliance division?

22 A That's correct.

23 Q What is that understanding based on?

24 A That's the understanding -- my understanding of
25 the *Gaming Control Act* that indicates that the

1 General Manager is responsible to provide broad
2 policy advice on standards, regulations to the
3 minister. And these would be -- I considered
4 that part of that mandate and that our
5 compliance unit would not be responsible for
6 that. That's the policy unit that would drive
7 that review and provide the advice or
8 recommendations up to -- through me to the
9 deputy and on to the minister.

10 Q And that certainly seems quite logical, but
11 we -- commission has heard evidence from Ms. Sue
12 Birge, and granted it goes back to, I believe,
13 2011 and prior to then. I believe she testified
14 that GPEB's policy division would not, at least
15 at that time, consider AML proposals in respect
16 of AML or those -- or cash alternatives.

17 So I'm wondering based on your evidence, is
18 this an assumption you're making that that --
19 that this was done or should be done, or do you
20 have actual specific knowledge that GPEB's
21 policy division would consider these proposals
22 when you arrived at GPEB?

23 A I was of the opinion according to the Act that
24 that was our role.

25 Q Right.

1 A And I was under the understanding from talking
2 to our policy centre that that would be the
3 typical course of events where they would --
4 they get the information and share it out,
5 analyze it and provide feedback and/or options
6 or recommendations up through the various levels
7 to the minister.

8 Q Who was director of policy at -- when you
9 arrived at GPEB?

10 A Michelle Jaggi-Smith.

11 Q Okay. And based on your communications with
12 Ms. Fitzgerald, did she inform you about whether
13 she requested that Mr. Kroeker or BCLC bring
14 those proposals forward in some more formal way
15 or refer them to GPEB's policy division?

16 A No. What she informed me of, that she had
17 informal contact or communication with
18 Mr. Kroeker about these initiatives and that she
19 felt they -- she didn't see any real problem
20 with them at the first blush, but she also
21 indicated to Mr. Kroeker that we were going
22 as -- GPEB was going through the source of funds
23 audit and they were finding non-compliance
24 significant, and compliance had recommended to
25 Mr. Kroeker that those initiatives not move

1 forward until the source of funds issues had
2 been resolved.

3 Q But she confirmed that -- otherwise she
4 indicated she didn't see any issues with the
5 proposals; correct?

6 A That's correct. The other issue that we had was
7 the AML DMC had been stood up and was
8 responsible for the German recommendations --
9 oversight of the German recommendations and
10 there was an overlap, and I indicated that -- to
11 Mr. Lightbody in a letter of August 9th of that
12 overlap and that any future actions on these
13 initiatives should be taken up through the AML
14 DMC for their information, at least.

15 Q Right. And in the letter that Mr. McFee just
16 put to you dated December 4th, 2018, the
17 language used there was that you recommended
18 that BCLC inform the AML DMC prior to
19 implementing the proposed policy which in that
20 case was the \$3,000 identification threshold;
21 correct?

22 A Yes. Yes.

23 Q So from your perspective it was a recommendation
24 to BCLC that you should at least inform the DM
25 C; correct?

1 A Yes.

2 Q And you've indicated that in terms of delimiting
3 convenience cheques and the cash payout limits,
4 those money -- anti-money laundering measures
5 were put on hold in August of 2018 at your
6 request or at the request of GPEB; correct?

7 A That's correct.

8 Q And that to your knowledge they had not yet been
9 brought to the DMC as you would expect?

10 A That's correct.

11 Q And this is -- you know, obviously we're now in
12 April 2021, and we've seen that other measures
13 have gone to the DMC. Is there any reason why
14 this has not been considered yet?

15 A I'm not sure. It would be BCLC that would take
16 it to the DMC.

17 Q Okay. And are you aware, though, that BCLC,
18 including Mr. Kroeker, did follow up subsequent
19 to August 2018 with GPEB on when this policy
20 could be implemented?

21 A Yes. I've seen emails between the executive
22 director of policy in GPEB and BCLC talking
23 about this very issue in or around June of 2019.
24 And the information that was relayed back and
25 forth was that these initiatives, if they were

1 to go forward, should go forward through the AML
2 DMC. And that's the last correspondence I've
3 seen on the issue.

4 Q Okay. And so if at least by the time
5 Mr. Kroeker departed from BCLC, which was in the
6 summer of 2019, his understanding was they were
7 awaiting GPEB approval. You're suggesting that
8 you were awaiting this to be brought to the DMC?

9 A That's correct.

10 Q And do you recall that when you spoke with
11 Mr. Kroeker in August 2018 you indicated that
12 you were only asking for a temporary hold on
13 this directive and that you estimated -- it
14 would be in the realm of a few weeks?

15 A I don't recall that conversation, I'm sorry. We
16 could have had that conversation. I could have
17 said look, let us have a look at this and see if
18 we can get back to you on it, but in the interim
19 I wrote the letter to -- in consideration of the
20 source of funds and the AML DMC, I wrote the
21 letter to Mr. Lightbody providing direction on
22 those initiatives.

23 Q And, sorry, just so I'm clear. Did GPEB then
24 get back to BCLC in terms of its own analysis
25 from the policy division?

1 A No, we didn't. We waited for those to come
2 forward and then a full policy review would have
3 been done.

4 Q You were waiting on the actual proposals to come
5 forward?

6 A Yes, to DMC.

7 Q To the DMC. So GPEB's policy division would
8 have only looked at it once it was in front of
9 the DMC?

10 A They looked at it initially when it first
11 came -- when we first got the information and
12 provided some insight into those initiatives,
13 but we would have done a full workup for the DMC
14 on those initiatives much like we do with all
15 the other initiatives that go forward to DMC.
16 It would have been a combined workup analysis by
17 both BCLC and GPEB on that to inform DMC on the
18 initiatives. We didn't go to that extent
19 because they never came forward to the DMC.

20 Q Did you ever convey -- to your recollection did
21 you personally convey to anybody at BCLC that
22 this needed to be done?

23 A Mr. Lightbody in my letter of August 9th.

24 Q Well, okay. So we'll look at the language in
25 that letter, but that would be the

1 communication?

2 A Yes.

3 MS. MAINVILLE: Thank you. Those are my questions.

4 THE WITNESS: Thank you.

5 THE COMMISSIONER: Thank you, Ms. Mainville.

6 I'll now turn to Ms. Tweedie on behalf of
7 the British Columbia Civil Liberties
8 Association, who has been allocated five
9 minutes.

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

11 **EXAMINATION BY MS. TWEEDIE:**

12 Q Mr. MacLeod, I assume you're familiar with the
13 *Proceeds of Crime (Money Laundering) and*
14 *Terrorist Financing Act.*

15 A Yes.

16 Q And you're aware that under that legislation
17 FINTRAC can only disclose information to law
18 enforcement where there are reasonable grounds
19 to suspect that the information would be
20 relevant to investigating or prosecuting a money
21 laundering or terrorist financing offence?

22 A That's correct.

23 Q And even then only designated information can be
24 shared?

25 A That's correct.

1 Q Okay. So you understand, then, that your
2 proposal that GPEB have access to FINTRAC
3 information would necessarily involve changes to
4 that legislation?

5 A Yes.

6 Q And would you agree that *Charter* and privacy
7 rights must be considered if any changes to this
8 legislation are to be considered?

9 A Yes, I agree with that.

10 Q Thank you. And would you also agree that
11 *Charter* and privacy rights also must be
12 considered if -- for your second proposal of
13 having information sharing between regulators?

14 A Yes.

15 Q Okay. Thank you. And just my last question.
16 Your suggestions that GPEB would be assisted by
17 having access to FINTRAC data and sharing
18 information with regulators, this is based on
19 your opinion and not any empirical evidence;
20 that's correct?

21 A That's based on my opinion and the new role that
22 we as regulators play in the casinos with the
23 contraventions of the *Gaming Control Act* and
24 *Criminal Code* in regards to money laundering.

25 MS. TWEEDIE: Okay. Thank you very much. Those are

1 my questions.

2 THE COMMISSIONER: Thank you, Ms. Tweedie.

3 I'll turn now to Ms. Chewka on behalf of
4 the province, who has been allocated 25 minutes

5 MS. CHEWKA: Thank you, Mr. Commissioner.

6 **EXAMINATION BY MS. CHEWKA:**

7 Q Mr. MacLeod, can you hear me okay?

8 A Yes.

9 MS. CHEWKA: Thank you. Mr. Commissioner, before I
10 begin with my questions for Mr. MacLeod, I just
11 note we have one issue with the exhibit 876 that
12 was entered today. When it was on the screen we
13 observed that there was one portion of the
14 document that is actually subject to a claim of
15 public interest immunity. It includes an
16 excerpt from a cabinet meeting minute.

17 THE COMMISSIONER: Okay.

18 MS. CHEWKA: And we are asking for a direction from
19 the commission that we have leave to produce a
20 redacted version just redacting the first bullet
21 on page 3 of that document and that that be
22 tendered as the exhibit itself.

23 THE COMMISSIONER: Yes, that's fine. You have that
24 direction.

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

1 Q Mr. MacLeod, you gave evidence this morning
2 regarding the implementation of Peter German's
3 recommendations. Do you recall how many
4 recommendations Mr. German made with respect to
5 GPEB?

6 A There were 13 recommendations that we as GPEB
7 were responsible for out of the 48.

8 Q And of those 13, do you know how many of the 13
9 GPEB has addressed to date?

10 A We have addressed -- there's 38 recommendations
11 of the 48 that have already been addressed to
12 date. And the last 10 are to be addressed
13 through the legislation amendments.

14 Q And of the 38 that have been addressed, have
15 they all been implemented as recommended by
16 Dr. Peter German?

17 A No.

18 Q Can you provide some examples to the
19 Commissioner where Mr. German's recommendations
20 were addressed but not implemented in the way
21 that he suggested?

22 A Recommendation 30 contained two parts. One was
23 that the AML would be the responsibility of the
24 regulator and B would be the regulator would be
25 responsible for AML training to gaming workers

1 and service providers. So the first part of
2 that is it accepted and we are working on that.

3 The second part we reviewed that
4 recommendation and it would have been redundant
5 to implement that recommendation and costly.
6 Because BCLC is charged with training under the
7 *Proceeds of Crime (Money Laundering) and*
8 *Terrorist Financing Act*, they have a
9 responsibility to train gaming service providers
10 and gaming workers within those casinos to that
11 extent, that same training. It's a
12 responsibility, and they are held accountable
13 for that. And I know that FINTRAC audits
14 against that responsibility on a regular basis.
15 So it would have -- as I said, it would have
16 been redundant and costly, and so we are not
17 doing that.

18 Q Are there other recommendations by Mr. German
19 where GPEB or the government has addressed them
20 but not in the way recommended by Mr. German?

21 A Yes. A significant one is the DPU. It was
22 recommended -- Dr. German recommended that a DPU
23 be stood up. And I think he based that on the
24 OPP model in Ontario. And that has not been
25 approved by the AML DMC committee. Again, I

1 spoke to this today about the structure that's
2 in place in the enhanced enforcement structure
3 or response that GPEB investigators are
4 contributing within casinos. And that that and
5 the integrated intelligence unit that I spoke
6 about are real responses to AML in this
7 province. And it's a matter of assessing that
8 on a go-forward basis to work with other
9 regulators in that space before we -- so a DPU
10 was not -- is not the accepted course of action.

11 Q Is it fair to say, then, that the government has
12 not blindly accepted Mr. German's
13 recommendations but are instead working through
14 them?

15 A Yes.

16 Q Mr. McCleery this morning asked you about what
17 I'll refer to as the August 2018 BCLC policies
18 that did not go forward. Do you recall that?

19 A Yes.

20 Q And you gave evidence that it was GPEB's view
21 that the new policy should not be implemented
22 until the source of fund audit issues were
23 resolved. Do you recall that?

24 A Yes.

25 Q Can you explain to Mr. Commissioner why GPEB was

1 of the view that those proposed August 2018
2 policies should wait until the source of funds
3 issues were resolved?

4 A Yes. We were seeing significant non-compliance
5 with the source of funds, which meant that the
6 funds coming into the casino, the large
7 transactions over the 10,000 coming into casinos
8 weren't being properly vetted. So the turn
9 around and then issue a cheque based on the lack
10 of rigour around the source of funds in the
11 first instance would contribute to money
12 laundering or at least could contribute to money
13 laundering.

14 Q Did you also have a concern about changing too
15 much at once?

16 A Yes. The service providers had gone through
17 significant change with the source of funds and
18 obviously struggled with that. And its an
19 education and awareness and just over time --
20 the time it takes to establish new policies and
21 work through the implementation. And then to
22 give -- lay the responsibility for another three
23 or four initiatives at the same time would have
24 been a significant impact.

25 Q With respect to those 2018 proposed BCLC

1 policies, I understand your evidence that those
2 policies have not been pursued by BCLC to date.

3 Is that correct?

4 A Correct.

5 Q I'm going to ask you to turn to a document.

6 MS. CHEWKA: Madam Registrar, if I could please have
7 BCLC0011639.

8 Q It's tab 9 of your book, Mr. MacLeod.

9 A Yes.

10 Q Is this a letter that you sent to Mr. Lightbody
11 on August 9th, 2018?

12 A Yes, it is.

13 Q And in this letter you thank Mr. Lightbody for
14 suspending that implementation of those policies
15 that we're referring to; is that correct?

16 A That's correct.

17 Q And I'll just ask you to take the moment to read
18 this letter.

19 A Yes.

20 Q And paragraph -- the second paragraph on the
21 first page, you note to Mr. Lightbody that:

22 "[The] government is initiating
23 policy-related work stemming from the
24 German Report recommendations through an
25 internal deputy minister committee. Some

1 of the recommendations overlap the areas
2 where BCLC's proposed changes are
3 directed. In order to minimize the
4 impact on service providers, these
5 recommendations should be considered
6 before the proposed changes are
7 implemented. Government will decide how
8 to move forward with the best ways to
9 implement them."

10 A Yes.

11 Q Is that the reference to the AML DMC that you
12 were referring to in your evidence?

13 A Yes, it is. And I believe there is a further
14 reference, if I recall correctly, on the very
15 last line.

16 Q Where you say:

17 "I request you continue to hold
18 implementation directive to Casino Service
19 Providers until this audit work is
20 complete and future direction has been
21 established by the deputy minister
22 committee."

23 Is that correct?

24 A Yes.

25 Q Did you have any additional conversations with

1 Mr. Lightbody or anyone else at BCLC with
2 respect to the need to raise these policies of
3 the AML DMC?

4 A No.

5 Q For the benefit of the Commissioner, I wonder if
6 you could perhaps just explain briefly the
7 nature of the AML DMC and who sits on that
8 committee.

9 A The AML DMC was struck -- I think their first
10 meeting was in September of 2018. The meetings
11 consisted of Deputy Minister Lori Wanamaker,
12 Deputy Minister Mark Sieben and Associate Deputy
13 Minister Doug Scott. They were the principals,
14 members of that committee. Jim Lightbody as the
15 CEO of BCLC and myself as the ADM of GPEB sat as
16 non-voting members. The executive director of
17 the AMLS -- the AML secretariat also sat on that
18 committee as well.

19 MS. CHEWKA: Madam Registrar, I can't recall if this
20 has been marked as an exhibit already.

21 THE REGISTRAR: No, this one has not.

22 MS. CHEWKA: Mr. Commissioner, may I have this letter
23 marked the next exhibit, please.

24 THE COMMISSIONER: Yes, very well.

25 MS. CHEWKA: Thank you.

1 THE REGISTRAR: Exhibit 881. Mr. Commissioner.

2 **EXHIBIT 881: Letter from Sam MacLeod re**

3 **Suspension of BCLC directive - August 9, 2018**

4 MS. CHEWKA: Thank you, Madam Registrar. I'm
5 finished with this exhibit now.

6 Q Mr. MacLeod, how often does the AML DMC meet?

7 A It's typically monthly.

8 Q Can you explain the process by which a policy
9 such as those being proposed by BCLC in 2018
10 would be brought forward to the AML DMC?

11 A Yes. They would be brought forward to the AML
12 secretariat for consideration as an agenda item.
13 If they were considered as an agenda item and
14 approved as an agenda item, then the work -- we
15 would work collaboratively with BCLC to
16 provide -- if required, to provide the backdrop
17 to those initiatives, the analysis of those
18 initiatives and any recommendations coming out
19 of the initiatives.

20 Q When you say "we," do you mean GPEB?

21 A Yes, we, GPEB.

22 Q And did you want to add something to that
23 answer?

24 A And some of the -- yes, some of the agenda items
25 came up as a matter of course in the number of

1 recommendations that were coming forward to the
2 DMC committee.

3 Q In your view who would be responsible for
4 bringing forward those proposed policies put
5 forward by BCLC in 2018 to the AML DMC?

6 A BCLC would have been responsible for that.
7 And -- yes.

8 Q To your knowledge did BCLC bring forward those
9 policies to the AML DMC?

10 A No.

11 Q But to your knowledge BCLC has brought forward
12 other anti-money laundering policies since then
13 to the AML DMC; is that correct?

14 A Yes.

15 Q Counsel for Mr. Kroeker and Ms. Mainville asked
16 you this afternoon about your understanding of
17 GPEB's policy role. Do you recall those
18 questions?

19 A Yes.

20 Q In particular she referred you to the evidence
21 given by Sue Birge. Do you recall that
22 question?

23 A Yes.

24 Q Mr. MacLeod, do you have any direct knowledge
25 regarding what GPEB's approach was to policy

1 making or giving feedback on BCLC policies prior
2 to you joining GPEB?

3 A No.

4 Q This morning you also gave evidence with respect
5 to GPEB's source of funds audits. Do you recall
6 that?

7 A Yes.

8 Q And in your evidence you discussed the fact that
9 GPEB had identified issues regarding bank drafts
10 through those audits; do you recall that?

11 A Yes.

12 Q In particular, as I understand your evidence
13 there were issues with patrons not providing the
14 account number; is that correct?

15 A That's correct.

16 Q Mr. MacLeod, are you familiar with Project
17 Athena?

18 A Yes, I am.

19 Q Can you briefly describe for the Commissioner
20 your understanding of Project Athena?

21 A Project Athena is a public/private partnership.
22 It was initiated by the Combined Forces Special
23 Enforcement Unit JIGIT, and it brought together
24 banks, financial institutions, CRA, CBSA, GPEB,
25 BCLC to discuss money laundering initiatives or

1 money laundering issues, and one of those was
2 around bank drafts. And that was more or less
3 one of the impetus to create Project Athena.

4 Q When you say that was one of the impetus to
5 create Project Athena, are you referring to the
6 GPEB source of funds audit regarding bank drafts?

7 A No. The bank draft issue had been addressed or
8 raised by CFSEU and JIGIT as well, so it was not
9 our source of funds that initiated that.

10 Q Mr. Skwarok took you to several documents
11 regarding the compliance with the source of
12 funds policy during the course of his
13 examination. Do you recall that?

14 A Yes.

15 Q I'm going to take you through some of those
16 documents again in hopes just for some clarity,
17 I think, on the correspondence.

18 MS. CHEWKA: Madam Registrar, can I please have
19 exhibit Y to Mr. Ennis's affidavit on the
20 screen.

21 Q Mr. MacLeod, this is a document you don't have
22 in front of you, so we'll have to display it on
23 the screen.

24 MS. CHEWKA: Oh, apologies, exhibit Z, Madam
25 Registrar. Thank you.

1 Q This is the December 28, 2018 letter; is that
2 correct? This is addressed to you?

3 A Yes.

4 Q And this letter was sent by Mr. Ennis; is that
5 correct?

6 A Yes.

7 Q And in the first line it says:

8 "Thank you for your letter dated
9 November 27, 2018."

10 A Right.

11 Q And so what I'd like to do next is actually
12 refer you to the November 27th letter. If
13 that's possible. And that's found at tab 6 of
14 your documents, Mr. MacLeod.

15 MS. CHEWKA: But, Madam Registrar, if I could have
16 BCLC0006200 on the screen next, please.

17 Q That reference to your November 27th letter, is
18 this the letter that Mr. Ennis was referring to?

19 A Yes.

20 Q And I'll just ask you to take a moment to read
21 the contents of this letter, and I have a couple
22 of questions about this.

23 A Yes.

24 Q And on this first page it's the fourth paragraph
25 down, and it states:

1 "As you are aware, GPEB conducted an audit
2 of transactions in August 2018 --"

3 Or maybe I'll go to the prior paragraph. It
4 says:

5 "This policy is formally incorporated into
6 the BCLC standards in September 2018. The
7 source of funds policy is an integral
8 control in anti-money laundering efforts
9 and compliance with this policy is
10 critical for upholding the integrity of
11 gaming in BC."

12 And in the next paragraph you state:

13 "As you are aware, GPEB conducted an audit
14 or transactions in August 2018 at the
15 River Rock Casino and the Hard Rock Casino
16 to verify compliance. This source of
17 funds policy was issued by BCLC in January
18 2018. Our audit found non-compliance with
19 this policy specifically around incomplete
20 or missing documentation required to
21 substantiate the source of the patron's
22 funds. The results of our audit was
23 shared with you on October 30, 2018, and
24 your response was received by GPEB on
25 November 13, 2018."

1 Does that help clarify things, Mr. MacLeod, with
2 respect to the contents of your November 27th
3 letter and what audit you were referring to in
4 that letter?

5 A Yes.

6 Q And just so I'm clear, it is the August 2018
7 audit that you were referring to; is that
8 correct?

9 A Yes.

10 MS. CHEWKA: Sorry. Thank you, Mr. MacLeod. If this
11 is not has been marked as an exhibit,
12 Mr. Commissioner I'll ask that this be marked
13 the next exhibit.

14 THE COMMISSIONER: All right. Perhaps Madam
15 Registrar can help us. I don't believe it has.

16 THE REGISTRAR: No, it hasn't been marked yet.

17 THE COMMISSIONER: Next exhibit, thank you.

18 THE REGISTRAR: Exhibit will be 882.

19 **EXHIBIT 882: Letter from Sam MacLeod re Source**
20 **of Funds Declaration policy - November 27, 2018**

21 MS. CHEWKA: Thank you, Madam Registrar.

22 The next document I'd like to refer you to,
23 it's going to be found at tab 18 of your
24 documents, Mr. MacLeod, but it's GPEB 1471.

25 Madam Registrar, if I could have that on the

1 screen next.

2 Q Do you have this document in front of you,

3 Mr. MacLeod?

4 A Yes, I do.

5 Q And this is a January 16th, 2019 letter from you

6 to Mr. Ennis; is that correct?

7 A Yes.

8 Q And this letter is in response to Mr. Ennis's

9 December 28th, 2018 letter; is that correct?

10 A That's correct.

11 Q I'll give you a moment to read this document.

12 A Yes.

13 Q And at the third paragraph -- sorry, the second

14 paragraph you state:

15 "I would like to start by acknowledging
16 that the Gaming Policy Enforcement Branch
17 is aware of the challenges that occurred
18 during the implementation of the source of
19 funds directive, and I have sent a letter
20 to the British Columbia Lottery
21 Corporation indicating my concerns."

22 With respect to this paragraph, what are you
23 referring to when you say the challenges that
24 occurred during the implementation?

25 A These were the instructions and the training

1 that BCLC provided to service providers and
2 where the bank account -- or bank draft number
3 was -- they were instructed that bank draft
4 number was a replacement for the bank account
5 number.

6 Q And in the next paragraph down you state:

7 "However, as noted in my previous letter,
8 in September 2018 BCLC formally
9 incorporated the source of funds policy in
10 the BCLC standards, including the
11 requirement to obtain documentation
12 showing 'the patron's name, the name of
13 the financial institution that issued the
14 cash certified cheque or draft bank and
15 the patron's bank account number.'"

16 And so in this paragraph can you just clarify
17 what you were referring to here.

18 A Yes. BCLC had clarified the policy. We had had
19 discussions with BCLC. They clarified their
20 policy. They incorporated into the policy,
21 codified it. It had only been verbal or in
22 written format before that but not documented in
23 policy, and so this was very clear policy that
24 was codified.

25 Q And finally the last paragraph you state:

1 "GPEB's expectation is that service
2 providers are now in full compliance with
3 the September 2018 policy as per the BCLC
4 standards. We are looking to move forward
5 in an audit that will be conducted in
6 early 2019. We will focus on the current
7 state of the source of funds process. Any
8 administrative sanctions considered as a
9 result of non-compliance will be based on
10 service provider activity subsequent to my
11 letter dated November 27, 2018."

12 A Yes.

13 Q And is it my understanding, then, from that that
14 GPEB didn't take any compliance action with
15 respect to the non-compliance is that arose as a
16 result of the lack of clarity in instructions?

17 A No, we did not.

18 Q And that a further audit was conducted in 2019;
19 is that correct?

20 A Yes.

21 Q And are you familiar with the results of that
22 audit?

23 A Yes. Compliance had increased. It was deemed
24 satisfactory.

25 Q And so no compliance or GPEB didn't take any

1 compliance actions with respect to this issue,
2 then?

3 A No, we did not.

4 MS. CHEWKA: Thank you. Mr. Commissioner, those are
5 my questions, Mr. MacLeod.

6 THE COMMISSIONER: Thank you, Ms. Chewka.

7 THE REGISTRAR: Sorry, Ms. Chewka, do you need to
8 mark this as an exhibit?

9 MS. CHEWKA: Yes. Thank you, Madam Registrar.

10 Mr. Commissioner, if I could have this
11 marked as the next exhibit.

12 THE COMMISSIONER: Yes, of course.

13 MS. CHEWKA: Thank you.

14 THE REGISTRAR: Exhibit 883.

15 **EXHIBIT 883: Letter from Sam MacLeod re source**
16 **of funds policy - January 16, 2019**

17 THE COMMISSIONER: Ms. Tweedie, anything arising?

18 MS. TWEEDIE: Nothing arising. Thank you.

19 THE COMMISSIONER: Ms. Mainville.

20 MS. MAINVILLE: I do yes, briefly, Mr. Commissioner.

21 THE COMMISSIONER: Yes.

22 **EXAMINATION BY MS. MAINVILLE (continuing):**

23 Q Mr. MacLeod, Ms. Chewka just took you to
24 exhibit 881, if we could bring that up. And so
25 this is the letter you referenced earlier when I

1 was also questioning you that you sent to
2 Mr. Lightbody on -- if we could just go up a
3 bit. I think it's August 9th, 2018. Yes.
4 Correct?

5 A Yes.

6 Q And would you agree with me that there is no
7 specific request or direction in this letter
8 that BCLC bring the proposals to the DMC or
9 indeed that they take any kind of action?

10 A I think the -- what I was -- the letter at the
11 last line indicates:

12 "I request that you continue to hold
13 implementation of the directive to Casino
14 Service Providers until this audit work is
15 complete and further direction has been
16 established by the deputy minister
17 committee."

18 Q Right. But it's somewhat ambiguous, you'll
19 agree? In terms of who was to take the next
20 step on this.

21 A I'm not sure I agree with you.

22 Q So you disagree that it can read to someone as a
23 request by GPEB to hold off with an
24 explanation -- or reasons being provided as to
25 why. And -- let me rephrase that.

1 Is it your view that it's -- it would not
2 be reasonable to read this as a request to hold
3 off and therefore that GPEB will get back to
4 BCLC when they may proceed?

5 A No. This is a combination of the second
6 paragraph as well talking about the role of the
7 DMC and the work and the overlap, and then this
8 was just hold off and take it back to the -- or
9 take it up to the DMC for future directions.

10 Q Okay. But you'll agree -- well, you'll agree
11 that it also says we're going to look at it,
12 GPEB, and hold off on that basis; correct?

13 A Okay.

14 Q Sorry?

15 A Yes.

16 Q Yes. And it doesn't actually say take it to the
17 DMC but it says -- government will decide;
18 correct?

19 A And direction from the DMC. The last line is
20 received direction from DMC.

21 Q Right. But it doesn't say go and take it to the
22 DMC?

23 A I agree with that.

24 Q Because we've heard some evidence that BCLC was
25 waiting on GPEB for the green light. So you'll

1 agree with me at least if that was not your
2 intention that there may well have been some
3 form of miscommunication or misunderstanding?

4 A I think it was very clear in the correspondence
5 I saw between staff in the policy centre at GPEB
6 in June of 2019 that BCLC was aware that they
7 had to take it to the DMC.

8 Q Do you recall who that correspondence was
9 directed to at BCLC?

10 A That was between Jillian Hazel and I believe
11 Jennifer Gallaway or Jennifer Sutherland. One
12 of the two. I can't recall.

13 Q Okay. Sorry. So you recall having seen some
14 form of communication?

15 A That's correct.

16 MS. MAINVILLE: Okay. Those are my questions.

17 Thanks.

18 THE COMMISSIONER: Thank you, Ms. Mainville.

19 Mr. McFee.

20 MR. McFEE: Nothing arising, thank you,

21 Mr. Commissioner.

22 THE COMMISSIONER: Thank you. Mr. Skwarok?

23 MR. SKWAROK: Yes, thank you, sir.

24 **EXAMINATION BY MR. SKWAROK (continuing):**

25 Q Mr. MacLeod, just so we're clear now, and I

1 think we are, that when we were looking through
2 exhibits X and -- sorry, Y and Z of Mr. Ennis's
3 affidavit -- you remember those documents?

4 A Yes.

5 Q And then there was a subsequent letter from you
6 in November 27th?

7 A Yes.

8 Q And then a subsequent letter to that
9 December 28th from Mr. Ennis. Do you recall
10 that?

11 A Yes.

12 Q And then another letter from you in January.
13 You recall that?

14 A Yes.

15 Q And is it fair to say that -- now that all of
16 those documents were referring to one audit of
17 bank drafts that were looked at for the month of
18 August?

19 A There was a previous audit that was done prior
20 to the one in August, and that's, I think, where
21 the confusion [indiscernible].

22 Q Okay. But certainly your letter in January was
23 with respect to the August audit; correct?

24 A Yes.

25 Q As was Mr. Ennis's from December the 28th,

1 correct?

2 A Correct.

3 MR. SKWAROK: Okay. Thank you very much, sir.

4 THE COMMISSIONER: I just want to clarify that, if I
5 may, Mr. Skwarok. When you talk about the
6 August audit, it was an audit done of documents
7 that were generated in August but the audit
8 itself was done somewhat later; is that correct,
9 Mr. MacLeod?

10 MR. SKWAROK: Yes, and I was getting a little bit too
11 loose with terminology.

12 Q And, Mr. MacLeod, please correct me if I say the
13 next bit -- anything wrong. There was a GPEB
14 audit of August bank drafts. That audit was
15 reflected -- the results were reflected in a
16 draft report from GPEB, which is exhibit Y to
17 Ennis's affidavit. Subsequently exhibit -- I
18 can't remember the exhibit number, but there was
19 a letter from November 27th from the witness
20 saying that there were problems. There was a
21 subsequent letter from Mr. Ennis on
22 December 28th that again was referring to the
23 audit final version dated November in relation
24 to August transactions. So exhibits X, Y, the
25 November 27th letter from GPEB and the

1 December 28th letter from Mr. Ennis as well as
2 the January letter from the witness all were
3 referring to one audit of transactions from the
4 month of August. Is that somewhat clear?

5 A That's correct.

6 MR. SKWAROK: Well, more importantly,
7 Mr. Commissioner, was I clear enough on that?

8 THE COMMISSIONER: Yes, you were. Thank you,
9 Mr. Skwarok. I have it now. Thank you.

10 Mr. Smart?

11 MR. SMART: Nothing, thank you.

12 THE COMMISSIONER: Mr. McCleery?

13 MR. McCLEERY: Yes. Just very briefly,
14 Mr. Commissioner.

15 **EXAMINATION BY MR. McCLEERY (continuing):**

16 Q Mr. MacLeod, my friend Ms. Mainville just took
17 you back to exhibit 881, which was a letter
18 relating to what we're now, I think, calling the
19 August 2018 proposals. And I think we
20 established that there was no explicit direction
21 in that letter that BCLC needed to take -- you
22 to take those proposals to the DMC, just that
23 the DMC would give some guidance; is that correct?

24 A That's correct.

25 Q And I recall your evidence earlier was that you

1 had a phone conversation with Mr. Kroeker about
2 these proposals; is that correct?

3 A That's correct.

4 Q Do you recall in that conversation was there any
5 discussion as to who would be responsible for
6 bringing these proposals to the DMC?

7 A I don't believe so, no.

8 Q Okay. Do you have any other phone conversations
9 forces about these proposals?

10 A No, no.

11 Q Thank you. Was it your understanding that it
12 was well understood that if those were to go to
13 the DMC, that that would be BCLC's
14 responsibility?

15 A Yes.

16 Q And then along the same lines, you gave evidence
17 earlier that you were familiar with Dr. German's
18 comments on challenges in the relationship
19 historically between GPEB and BCLC; is that correct?

20 A Yes.

21 Q And do you recall that Dr. German suggested that
22 part of the source of those challenges may have
23 been a lack of role clarity between GPEB and BCLC?

24 A Yes.

25 Q Your predecessor John Mazure has given some

1 evidence before this commission that at times it
2 was not always entirely clear whether GPEB was
3 required to review or approve proposals
4 generated by BCLC. At the time that you began
5 with the branch did you understand there to be
6 any lack of certainty as to precisely what
7 proposals GPEB needed to look at, needed to
8 approve?

9 A There was no uncertainty on my part.

10 MR. McCLEERY: Thank you. Those are my questions,
11 Mr. Commissioner.

12 THE COMMISSIONER: Thank you, Mr. McCleery.

13 And thank you, Mr. MacLeod. I appreciate
14 you taking the time to assist the commission by
15 providing your experiences and insights as the
16 ADM and General Manager of GPEB for the last
17 three to four years. You're now excused from
18 any further testimony.

19 **(WITNESS EXCUSED)**

20 THE COMMISSIONER: And we'll adjourn, Mr. McCleery,
21 until tomorrow morning at 9:30.

22 THE REGISTRAR: The hearing is now adjourned until
23 April 20th, 2021, at 9:30 a.m. Thank you.

24 **(PROCEEDINGS ADJOURNED AT 1:05 P.M. TO APRIL 20,**
25 **2021)**