

**PROCEEDINGS AT HEARING  
OF  
FEBRUARY 2, 2021**

**COMMISSIONER AUSTIN F. CULLEN**

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**February 2, 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.

Ms. Latimer, I think we're now at the stage where counsel for the participants will commence their questioning of Mr. Desmarais.

Ms. Hughes on behalf of the province, you've been allocated 45 minutes.

MS. HUGHES: Yes, thank you, Mr. Commissioner.

**BRAD DESMARAIS, a**  
**witness for the**  
**commission, recalled.**

**EXAMINATION BY MS. HUGHES:**

Q Hello, Mr. Desmarais. Can you hear me all right?

A I hear you well. Good morning.

Q Excellent. Thank you. So, Mr. Desmarais, I'm not sure if you listened to Mr. Lightbody's testimony the other day, but he testified that prior to January of 2018, BCLC had adopted and used a risk-based approach to addressing money laundering risks in casinos. Was that your

1                    understanding of BCLC's general approach as  
2                    well?

3                    A        Yes, it was.

4                    Q        And that approach was based on the FATF and  
5                    FINTRAC guidance for casinos; is that right?

6                    A        Not entirely. It was also based on the gambling  
7                    landscape as well.

8                    Q        Fair enough. And indeed both FATF and FINTRAC  
9                    had issued guidance specific to casinos; right?

10                  A        Yes, yes.

11                  Q        And so in that way a risk-based approach was one  
12                  that would allow BCLC to identify potential high  
13                  risks of money laundering and terrorist  
14                  financing and develop strategies to mitigate  
15                  them; right?

16                  A        Yes.

17                  Q        And in order to do that, the risk-based approach  
18                  requires focusing resources where they are most  
19                  needed to manage the risk within your  
20                  organization's tolerance level; is that right?

21                  A        Well, not entirely. In addition to looking at a  
22                  risk-based approach to how we managed AML, our  
23                  primary concern was to remain compliant with --

24                  Q        Fair enough. So in addition -- right. So in  
25                  addition to ensuring that you were complying

1                   with your FINTRAC reporting obligations, the  
2                   risk-based approach would also require you to  
3                   focus resources where most needed to manage  
4                   other identified risks within your tolerance  
5                   level?

6                   A     Yes.

7                   Q     And so just to talk a little bit more about a  
8                   risk-based approach, I think you'll agree that  
9                   two key premises to that approach are first that  
10                  the measures used are commensurate with the  
11                  risks identified; right?

12                  A     Yes.

13                  Q     And second that resources are directed so that  
14                  the greatest risks receive the highest  
15                  attention. That's also fair?

16                  A     Yes. Although there were -- understanding the  
17                  risks in the first instance was probably our  
18                  highest priority.

19                  Q     Right. So you need to first identify what the  
20                  risks are, then you need to ensure the measures  
21                  that you've put in place are commensurate with  
22                  those risks and that you've dedicated resources  
23                  to the risks that are the highest to get the  
24                  most attention?

25                  A     Yes. Once that -- once the risk is understood,

1                   that would be the case, yes.

2           Q        Okay.  And I think you'll agree that when you're  
3                   using a risk-based approach, that's not static,  
4                   is it?  It's important to continually assess  
5                   vulnerabilities and address them accordingly?

6           A        Absolutely.

7           Q        And I think we can also agree that there's no  
8                   sort of one size fits all approach when you're  
9                   dealing with a risk-based approach.  You can use  
10                  different tools or components within that  
11                  approach; correct?

12          A        That's correct.

13          Q        And so in that way, a risk-based approach and  
14                  prescriptive thresholds, for example, they're  
15                  not mutually exclusive, are they?

16          A        They can be.  They can be mutually exclusive.  A  
17                  prescriptive approach might actually exacerbate  
18                  a risk if the prescriptive approach was not well  
19                  thought out, well analyzed and took into  
20                  account -- took into account unexpected  
21                  consequences.

22          Q        Sorry, I may have misspoke.  What I was  
23                  intending to get your view on was whether a  
24                  risk-based approach can include prescriptive  
25                  components.  You can have prescriptive

1 components in a risk-based approach?

2 A Yes. Of course with the caveat of my previous  
3 comment, yeah.

4 Q Right. Fair enough. And even BCLC's own  
5 application of a risk-based approach to its  
6 business, it didn't rule out prescriptive  
7 components, did it?

8 A I suppose not. It didn't really rule out  
9 anything. It didn't really rule out any  
10 approach. If a -- if the only way to achieve  
11 compliance, for instance, was by implementing a  
12 prescriptive -- a prescriptive approach at a  
13 moment in time, then BCLC would do that. But  
14 the prescriptive approach at that moment in time  
15 may be subject to alteration, depending on the  
16 circumstances.

17 Q Okay. So I think we're agreeing, then, that a  
18 prescriptive component can be part of a  
19 risk-based approach. So, for example, if  
20 suspicious cash buy-ins consisting of \$20 was  
21 identified as a risk, the fact that BCLC's  
22 overarching approach to managing money  
23 laundering was risk-based wouldn't preclude BCLC  
24 from also using a prescriptive measure to  
25 address that particular risk, would it?

1           A     Yes, if we felt that that was a risk, yes.

2           Q     Right. And indeed in practice, some of BCLC's  
3                 risk-based strategy did include prescriptive  
4                 components, didn't they?

5           A     Certainly in the latter years. More recently it  
6                 has. I think, again, it feels like you're  
7                 asking me -- and maybe I'm misinterpreting your  
8                 question -- it feels like you're asking me if  
9                 you had a prescriptive approach and that would  
10                be how we would approach a particular set of  
11                circumstances and that would be static forever.  
12                The answer would be no. But BCLC did from time  
13                to time prescribe certain approaches with  
14                service providers.

15          MS. HUGHES: Right. And perhaps it will assist to  
16                look at an example. Madam Registrar, if you  
17                could please turn up BCLC100.

18                     I'm not sure, Mr. Desmarais, if you have a  
19                     hard copy of that available. What you should be  
20                     looking at, it's a BCLC document.

21                     Okay. So, Madam Registrar, the way this  
22                     shows up in PDF is difficult. I'm not sure if  
23                     you have a native Excel version available.

24          THE REGISTRAR: Ms. Hughes, I'm sorry, this is the  
25                only version I have. Do you have another



1 document number maybe I would try?

2 MS. HUGHES: No, I don't. It's only produced in this  
3 one document number. That's fine. I can work  
4 with this.

5 Q What you should be looking at, Mr. Desmarais, is  
6 we have a document "BCLC Patron Risk Decision  
7 Tree," and I can tell you it's about four pages  
8 in on this version, but it's dated January 2013.  
9 Have you ever seen this document before?

10 A Can you bear with me for just a moment. I'll  
11 actually look at that.

12 Q Sure. What I'd like you to look at, sir, is  
13 what you'll see on this document is that -- and  
14 by way of example, in 2013 it appears that BCLC  
15 was using a prescriptive component within its  
16 risk-based approach to identify patrons with  
17 high risk, and in particular you'll see on the  
18 first two pages combined that BCLC imposed a  
19 buy-in threshold to determine high-limit  
20 patrons. So if the buy-in dollar amount in a  
21 24-hour period was over a casino-specific level,  
22 then the patron would be identified as high  
23 risk.

24 And now Madam Registrar has put up page 2,  
25 and we see that, for example, for River Rock,

1                   that level was set at \$250,000. Do you see  
2                   that?

3           A        Yes, yes.

4           Q        Yes. And so that would be an example of using a  
5                   prescriptive component within BCLC's risk-based  
6                   approach, wouldn't it?

7           A        No. This would be a -- this would be a  
8                   guideline for investigators or to take certain  
9                   actions or do certain things.

10          Q        Well, this is an approach for designating  
11                   patrons as high risk; right?

12          A        Yes.

13          Q        Yes, and one of the components of that approach  
14                   is if a buy-in is over \$250,000 at River Rock,  
15                   then that patron is the -- the investigator is  
16                   told to designate that patron as high risk;  
17                   correct?

18          A        Yes.

19          MS. HUGHES: Thank you, Madam Registrar. We can take  
20                   that document down.

21          THE WITNESS: Are we done with that document?

22          MS. HUGHES:

23          Q        Thank you, Mr. Desmarais. Yes, we're done with  
24                   that document. Thank you.

25          A        Okay. It's very deep.

1 Q It's a lot of paper.

2 So next, Mr. Desmarais, I'd like to ask you  
3 some questions about following up on some  
4 question that commission counsel asked you  
5 yesterday.

6 A Sure.

7 Q And I think you'll recall Ms. Latimer asked you  
8 some questions about the various explanations  
9 you advanced when trying, as you put it, to  
10 dispel the myths and rumours around money  
11 laundering and casinos. Do you recall that line  
12 of questioning?

13 A Yes.

14 Q And you suggested that some of the other factors  
15 that you considered were whether cash was coming  
16 in from overseas, whether patrons had legitimate  
17 cultural preferences for using cash or whether  
18 the cash could be from legitimate businesses.  
19 Those were all suggestions you made?

20 A Those were all factors, yes, which would have  
21 comprised, including proceeds of crime, of  
22 course -- could have -- the gambling landscape  
23 at that time was quite confusing. We had all  
24 this cash coming in. There were a number of  
25 theories advanced that some of which

1 specifically earmarked that money as drug money.  
2 I was not so sure, and in fact quite frankly  
3 neither were my staff, and we looked at what are  
4 other possible explanations, either taken  
5 together proportionate of where that money could  
6 be coming from.

7 Q Right. And these were consistent themes that  
8 you used to minimize, as you put it, the  
9 reputational risk to BCLC of the growing problem  
10 of cash in casinos. Isn't that fair?

11 A No. I think my intent with those articles was  
12 to -- they were for internal purposes only.  
13 There was some media, there was a fair amount of  
14 media scrutiny on BCLC operations and the  
15 service providers. My intent with those  
16 articles was to -- was to explain to our  
17 internal staff that there were -- that we were  
18 doing everything we could to keep criminals,  
19 money launders out, people who came into our  
20 facility with the intention of laundering the  
21 proceeds of crime.

22 What I do regret at this stage is not also  
23 looking at -- not also being a little clearer on  
24 the component where a culpable money laundering  
25 act may have occurred outside the four walls and

1 patrons bringing in the proceeds of crime or  
2 commingling that or commingling that with other  
3 sources of cash. But I want to emphasize that  
4 did not deter us from pursuing the route that we  
5 chose to take around understanding our players  
6 better and doing much deeper dives on source of  
7 wealth and player behaviour.

8 Q So, Mr. Desmarais, you'll recall that there's  
9 concern about reputational damage to BCLC. That  
10 wasn't a concern you had alone, was it? Others  
11 in your organization shared it?

12 A Yes.

13 Q And you'll recall in February of 2014  
14 Mr. Karlovcec wrote in an email to you and  
15 others:

16 "The greatest threat to BCLC lies in the  
17 negative and inaccurate perception that  
18 casino and to a lesser degree e-gaming are  
19 vulnerable to large scale money laundering  
20 and other criminal activities.

21 Reputational damage to BCLC cannot be  
22 underestimated."

23 You agreed with Mr. Karlovcec's view, did you?

24 A No. Mr. Karlovcec is someone that I respect,  
25 have a great deal of respect for, and he did an

1                   outstanding job as the manager of money  
2                   laundering. My focus, however, was less about  
3                   reputation and more about compliance and  
4                   understanding our players better. Reputation  
5                   was certainly there. I wouldn't say it was an  
6                   overriding, the primary concern.

7                   Q    Now, in your answers to Ms. Latimer's questions  
8                   yesterday, you remember talking about money  
9                   coming into Canada from overseas, and we saw  
10                  some of those documents you just referenced, the  
11                  internal articles you wrote in May of 2013  
12                  raising that issue?

13                 A    Yes.

14                 Q    But you made that suggestion despite BCLC's  
15                  investigator Mr. Hiller having already debunked  
16                  that theory in February of 2013 when he wrote to  
17                  you and told you he had contacted CBSA and was  
18                  told that it was very unusual for money being  
19                  seized at the airport to be in Canadian dollars,  
20                  and he also told you that CBSA have confirmed  
21                  that Canadian dollars does not arrive at the  
22                  airport to the extent suggested. Do you  
23                  remember receiving that email from Mr. Hiller in  
24                  February of 2013?

25                 A    I recall reading that email, but that was not my

1                   experience.

2           Q       So you disagreed with Mr. Hiller?

3           A       I did disagree with Mr. Hiller.

4           Q       And so you disagreed with what CBSA was telling  
5                   him?

6           A       I'm not sure that Mr. Hiller would have been  
7                   privy to the -- would have been privy to the  
8                   amount of cash being brought in and properly  
9                   declared. I'm also not sure what Mr. Hiller's  
10                  role was at the airport. I know that I had a  
11                  team of investigators that were active  
12                  responding to border calls both at land  
13                  crossings as well as the airport, YVR, while I  
14                  was in proceeds of crime, and my recollection is  
15                  their experience, the amount of money that they  
16                  were responding to, both declared and  
17                  undeclared, was significantly more than that  
18                  \$15,000 average that Mr. Hiller spoke of. And  
19                  that there was -- my recollection is that it was  
20                  overwhelmingly Canadian.

21          Q       So you're saying you just don't believe  
22                  Mr. Hiller when he reported to you that CBSA had  
23                  confirmed to him that Canadian dollars didn't  
24                  arrive to the extent suggested?

25          A       No, I'm not suggesting Mr. Hiller was lying.

1 I'm not suggesting that at all. I think he -- I  
2 don't know how he posed that question, and I  
3 think probably the best way to resolve this  
4 would be of course to have someone called from  
5 CBSA.

6 Q All right. Well, fair enough. Let's move on.

7 So the views that you expressed about  
8 potential alternative sources for the cash  
9 coming into casinos, those weren't views that  
10 you only expressed internal to BCLC, were they?

11 A No, I expressed them to GPEB as well.

12 Q That's right. They animated the positions that  
13 you took with GPEB from time to time, didn't it?

14 A They -- I'm sorry.

15 Q They animated -- I'll rephrase the question.

16 Those views informed how you responded to GPEB  
17 on certain issues, didn't they?

18 A Yes, I think that's fair to say.

19 Q And you'll recall in March of 2013 GPEB had  
20 prepared a review of the progress in anti-money  
21 laundering and that that review was provided to  
22 BCLC for its comment. Do you recall that?

23 A Yes.

24 Q Yes. And you had an opportunity to review that  
25 report, and you made some comments on the report



1                   and you sent those comments to Mr. Lightbody,  
2                   didn't you?

3           A       Yes, I did.

4           MS. HUGHES: Yes. And, Madam Registrar, if you could  
5                   please turn up BCLC15964.

6           THE COMMISSIONER: Just before we move into that,  
7                   Ms. Hughes, did you mark BCLC100, or did we mark  
8                   it? And did you want to mark it?

9           MS. HUGHES: No, we didn't, Mr. Commissioner. And I  
10                   would appreciate having that document marked.  
11                   Thank you.

12           THE COMMISSIONER: All right. That will be  
13                   exhibit 523.

14           THE REGISTRAR: Exhibit 523.

15                   **EXHIBIT 523: BCLC Patron Risk Decision Tree**

16           MS. HUGHES:

17           Q       And so what you should have in front of you now,  
18                   Mr. Desmarais, is an email from yourself to  
19                   Mr. Lightbody dated March 14th, 2013.

20           A       Yes.

21           Q       Yes. And you say to Mr. Lightbody:

22                   "This is the draft report I spoke of. It  
23                   seems to me that GPEB is rushing down a  
24                   path that ought to be trod much more  
25                   cautiously."

1                   And then further on in your email you say:  
2                    "It appears that GPEB will tie AML  
3                   performance indicators to the reduction in  
4                   cash, which is misguided in my opinion.  
5                   They fail to consider the legitimate  
6                   patron who simply prefers to use cash for  
7                   any number of legitimate reasons."

8           A     Right.

9           Q     That was your opinion at the time?

10          A     Yes. Now, the reduction of cash is desirable  
11               and should be -- and should be a performance  
12               indicator but not necessarily of AML.

13          Q     All right. So if you could turn to page 1 of  
14               the report, please. That should be into the  
15               document a few pages in.

16          THE REGISTRAR: Sorry, Ms. Hughes, this is only a  
17               one-page document.

18          MS. HUGHES: That's interesting. My copy has a  
19               report attached to it.

20          THE WITNESS: Do we have the one with the bubbles?

21          MS. HUGHES: Perhaps try, Madam Registrar,  
22               BCLC0012145.

23          THE REGISTRAR: This is also one page.

24          MR. BUTCHER: It's exhibit 60 to his affidavit.

25          MS. HUGHES: Yes, but it doesn't include the comment

1 bubbles, is what we're looking for, as  
2 Mr. Desmarais noted himself.

3 MR. BUTCHER: That's BCLC12146.

4 MS. HUGHES: That's what I have as well, but ...

5 THE REGISTRAR: I have the 12146 with the comment  
6 bubbles. Is that what you want?

7 MS. HUGHES: Yes. Yes, please. I think that's what  
8 we're all trying to find. There we are.

9 Perfect. If you can go -- that's perfect.

10 Thank you, Madam Registrar.

11 Q So here now we have the report just to orient  
12 Mr. Commissioner. We're dealing with a report  
13 draft that GPEB has provided to BCLC and,  
14 Mr. Desmarais, the comments in blue, those are  
15 your comments; correct?

16 A They are.

17 Q And so here in response to GPEB writing in the  
18 report that -- and I'm in the second sentence of  
19 the blue highlighted paragraph.

20 "These buy-ins, with cash from outside of  
21 gaming facilities, challenged the AML  
22 goal."

23 You say in response:

24 "I'm not so sure about this. In my  
25 opinion I think it's premature to suggest

1                   that large cash transactions challenge the  
2                   AML goal. I don't think we've  
3                   conclusively proved that casinos are used  
4                   for money laundering. We should be  
5                   regarding the spending of funds derived  
6                   from the proceeds of crime different than  
7                   'money laundering.' In any event, in  
8                   light of recent revelations of the degree  
9                   of inbound flight of capital from Pacific  
10                  Asia countries, a significant amount of  
11                  which appears to be currency, we need to  
12                  re-evaluate our thinking with respect to  
13                  cash. There is no doubt that reduction in  
14                  cash use is desirable, but there are a  
15                  number of business and public safety  
16                  reasons to justify it, not just AML."

17                 So that's, as I put to you earlier, how we see  
18                 sort of your views on this issue being  
19                 communicated in how you deal with GPEB in  
20                 responding to the report. Is that fair?

21                 A     That's fair. Yeah, I was one month into the job  
22                     at that time.

23                 Q     And so you also, then, in response to GPEB's  
24                     suggestion that cash be scrutinized, you again  
25                     rely on the lack of evidence proving that small

1           denomination bills coming into casinos as  
2           proceeds of crime as justification for  
3           continuing to accept that money, don't you?

4           You can turn to page 2, Madam Registrar.  
5           And the last comment bubble on this page. If  
6           you can scroll down, please.

7           And here GPEB writes about measuring  
8           performance of AML being important to look at  
9           the SCTs that can be associated with understood  
10          money laundering typologies, and you say:

11           "I'm not so sure we're seeing SCTs that  
12           can be associated with classic money  
13           laundering typologies. At worst I think  
14           we may see some proceeds of crime used to  
15           gamble."

16          So you're trying to draw distinction between  
17          proceeds of crime and what you understood to be  
18          typical money laundering; is that fair?

19          A     It's fair I'm drawing a line between the use of  
20          proceeds of crime by unwitting players in the  
21          casinos and money laundering, which is -- and  
22          the actual culpable money laundering that's  
23          occurring outside the four walls of the casino.

24          Q     All right. Madam Registrar, if we could go back  
25          to BCLC159 -- I'm sorry, BCLC12145. And this is

1                   Mr. Lightbody's response to you. Do you see  
2                   that, Mr. Desmarais? This was the response you  
3                   received --

4           A       Yes.

5           Q       -- from Mr. Lightbody. And he says:

6                   "I completely agree with all your  
7                   comments."

8           A       Yes.

9           Q       And he goes on to say:

10                   "Overall, I think this report, if read by  
11                   an outer, would lead one to believe that  
12                   money laundering is rampant in casinos.  
13                   So I would suggest a repositioning of this  
14                   document around 'prevention' and reducing  
15                   'misperception' of money laundering."

16                   That's what Mr. Lightbody expressed to you at  
17                   the time?

18          A       Yes.

19          Q       And this was consistent with your view that  
20                   concerns about money laundering were overblown  
21                   and reports like this created a misconception?

22          A       In March of 20 -- in March of 2013 I was still  
23                   trying to figure out the cash -- the inbound  
24                   cash landscape, but I do agree that the notion  
25                   of money laundering occurring, you know, people

1 lining up with dirty cash, going into the  
2 casinos and laundering the dirty cash in casinos  
3 and leaving that in a culpable -- committing  
4 that offence within the casinos was overblown.  
5 I did, however -- I was, however, alive that the  
6 proceeds of crime might be using -- might be  
7 being used in the casinos. Now, I agree it's a  
8 fine point, that whether it's proceeds of crime  
9 or money laundering obviously they're connected.  
10 It is both are of extreme concern. But much  
11 of --

12 Q And as you --

13 A Sorry, go ahead.

14 MR. BUTCHER: No, if you've got -- finish your  
15 answer.

16 MS. HUGHES:

17 Q And as you know --

18 MR. BUTCHER: Ms. Hughes, can you just let him  
19 finish his answer.

20 MS. HUGHES: Certainly.

21 THE COMMISSIONER: Yes, I think Mr. Desmarais was  
22 finishing his answer. Go ahead.

23 THE WITNESS: I think actually I've lost my train of  
24 thought, Mr. Commissioner. I'm sorry.

25 THE COMMISSIONER: All right. Too many cooks.

1 MS. HUGHES:

2 Q All right. Well, if you recall what you wanted  
3 to add to your Mr. Desmarais later on, please  
4 just stop me and jump right in; okay?

5 A Thank you.

6 Q All right. And so and as you're aware, BCLC  
7 provided feedback on the report to GPEB and  
8 asked them to make certain revisions to the  
9 report?

10 A Yes.

11 Q And those revisions were made in part but not  
12 all; is that fair?

13 A Yes.

14 Q And so you were also resistant at this point in  
15 time to labelling cash facilitators as dealing  
16 in the proceeds of crime, weren't you?

17 A I think -- I'm not sure if I was resistant and  
18 I'm not sure if there's some language that says  
19 that. I think my state of mind at the time was  
20 that we just didn't know.

21 MS. HUGHES: All right. So, Madam Registrar, if you  
22 could please turn up BCLC11096.

23 MR. BUTCHER: Ms. Hughes, while you're doing that did  
24 you want to mark 12146, because I was going to  
25 if you didn't?



1 MS. HUGHES: Certainly, yeah, that would be fine. I  
2 think we should probably mark all of 12145,  
3 12146 and 15964 perhaps collectively.

4 THE COMMISSIONER: Okay. Those will collectively be  
5 marked as exhibit 524.

6 THE REGISTRAR: Exhibit 524.

7 **EXHIBIT 524: Consisting of 3 documents:**

- 8 **1. Email from Brad Desmarais to Jim Lightbody re**  
9 **Measurement Report to Ministry - March 14, 2013**  
10 **2. Email from Jim Lightbody to Brad Desmarais re**  
11 **Measurement Report to Ministry - March 15, 2013**  
12 **3. Anti-Money Laundering in BC Gaming Measuring**  
13 **Performance Progress - draft - with comments**

14 MS. HUGHES: Thank you.

15 Q And so, Mr. Desmarais, you should now have in  
16 front of you an email.

17 If you scroll down please, Madam Registrar,  
18 to the bottom of the page.

19 So what we have here is an email from you  
20 to Mr. Hiller on March 16th, 2015.

21 A Yes.

22 Q And in the middle of that paragraph you say:

23 "I am resistant to branding all cash  
24 facilitators as dealing in the proceeds of  
25 crime, however. In my last life we

1 encountered many underground bankers who  
2 used other sources of cash to facilitate  
3 funds transfers without resorting to  
4 proceeds of crime."

5 A Yes.

6 Q Do you see that?

7 A Yes.

8 Q So as of 2015 you were communicating to  
9 Mr. Hiller that you were resistant to labelling  
10 cash facilitators as dealing in proceeds of  
11 crime?

12 A No, I was resistant to labelling all cash  
13 facilitators as the proceeds of crime. It was  
14 very, very high risk because when you introduce  
15 an intermediary into the movement of  
16 particularly cash, the risk goes up because it  
17 is more difficult to identify whether the  
18 origins of the cash were from legitimate  
19 sources, criminally -- criminal sources or from  
20 other sources that were not criminal. So I  
21 wasn't prepared to say every single cash  
22 facilitator is a money launderer. What I was  
23 saying is I'm resistant to branding all of them  
24 in the same manner that it mentioned earlier in  
25 the document there, loan shark. It seemed like

1 everyone was using that term, that there was so  
2 many different terms that were so prejudicial  
3 that was being used quite frankly on both sides  
4 that where there was very little evidence to  
5 support it, and the interviews that had been  
6 occurring by March of 2015 with respect to cash  
7 facilitators and with players and how the  
8 players interacted with cash facilitators  
9 indicated that it was not loan sharking, that it  
10 was -- that there was not a usurious rate of  
11 interest being applied. So I know these are  
12 relatively small points, but it's a language  
13 that is like a -- it's like a -- it's just a  
14 lightening rod. So I would have preferred that  
15 we used the language to describe behaviours and  
16 people -- and I include players, most of whom or  
17 virtually all of them were innocent -- were  
18 innocent citizens or citizens of foreign  
19 countries -- that we should be very careful  
20 about labelling these folks until there was  
21 something that we would hang our hat on.

22 MS. HUGHES: Okay. If I could have that marked as  
23 the next exhibit, please, Mr. Commissioner.

24 MR. LEUNG: Sorry to interject. This email is  
25 exhibit 41 to the affidavit of Mr. Desmarais.

1 MS. HUGHES: Ah, then no need. Thank you.

2 THE COMMISSIONER: Thank you.

3 MS. HUGHES: Now, Madam Registrar, if we could please  
4 go back to BCLC12146, which should be the report  
5 with the comment bubbles.

6 Q You spoke just now, Mr. Desmarais, about not  
7 having evidence about the money that was coming  
8 into casinos necessarily being proceeds of  
9 crime, and I'm going to suggest to you that you  
10 tried to actually downplay the obvious inference  
11 that \$20 bills bundled in \$10,000 bricks and  
12 wrapped in elastic bands were proceeds of crime,  
13 and you did that by suggesting that other  
14 legitimate businesses bundled their cash that  
15 way or required cash to be bundled that way.  
16 And if you could look, please, at page 10 of  
17 this report, and I'm directing you to your  
18 comment bubble on that page.

19 A Yes.

20 Q When you say:

21 "I'm not sure we should be relying on  
22 denomination bundling methods for  
23 determining if currency originates from  
24 loan sharks. It's interesting to note  
25 that some casinos assemble their cash for

1                    deposit in bundles of 10,000 wrapped in  
2                    elastic, as do some cash-based  
3                    businesses."

4                    So you're suggesting there that it's not just  
5                    loan sharks that might use that method of  
6                    bundling money; you're saying that's a  
7                    legitimate method as well?

8                    A    What I'm saying is the method of bundling money,  
9                    especial from my experience as a police officer,  
10                    was really dependent on the need it was intended  
11                    for. I do not buy into the notion that large  
12                    amounts of \$20 bills are indicative of drug  
13                    trafficking. I just don't buy into that. And  
14                    that how they're bundled, I can speak from  
15                    experience that I've received in my years with  
16                    the police doing various undercover operations.  
17                    I know Canada is listening. I don't want to  
18                    give them a heart attack. I'm not going to  
19                    disclose any investigative techniques. But in  
20                    opportunities where I've attended banks to  
21                    obtain cash, it's coming in elastics. Money --

22                    Q    But your evidence --

23                    A    Go ahead, sorry.

24                    Q    I'll just ask if your evidence is that cash  
25                    coming from the banks is packaged the same way

1 as the cash that was coming into the casinos.

2 Is that what you're saying?

3 A What I'm saying is the banks will package cash  
4 in a manner that is consistent with the client's  
5 use. That's my recollection of banking  
6 services. Now, I know that cash going into  
7 banks, cash going into banks has to be bundled  
8 in a certain way. That often is done with  
9 elastics. So cash-based businesses are moving  
10 cash from wherever legitimate businesses that  
11 they are engaged in will bundle their cash in a  
12 certain way so as to be bank ready, and the  
13 reason they do that is to avoid service charges.  
14 Or at least in the early 2000s when I was most  
15 familiar with this -- with this topic area, that  
16 was my experience.

17 Q Let's just to be very clear, Mr. Desmarais.  
18 You've seen the video footage of bricks of  
19 \$10,000 bills being brought into casinos and  
20 bundled with elastic bands; right?

21 A Right.

22 Q Are you telling me that banks also provide cash  
23 bundled in that manner?

24 A I can't say whether they bundled it in bricks of  
25 \$10,000, but what I am -- I would be comfortable

1                   in saying is that banks use elastic bands and  
2                   they also generate \$20 bills.

3           Q        Okay. Well, that's fair. Let's leave it at  
4                   that, then. And, again, what I'm going to  
5                   suggest to you is, again, in making these  
6                   assertions that you do in this comment bubble  
7                   you're again trying to downplay the link between  
8                   the manner in which the cash was being presented  
9                   and the obvious inference that it was proceeds  
10                  of crime and that you did this to try and  
11                  protect BCLC's reputation to minimize its  
12                  reputational risk; is that right?

13          A        I would disagree with that, Ms. Hughes. I would  
14                   say that with one month into the job what I was  
15                   trying to do was understand. And what I think  
16                   you'll find in a number of the other bubbles  
17                   throughout this document, I was advocating a  
18                   much -- a process by which we have to understand  
19                   this behaviour better. Because there isn't a  
20                   single -- there isn't a single causation, I  
21                   guess, would be the best way to describe it,  
22                   which would suggest how this cash is coming in.  
23                   In my view after only being there a month,  
24                   speaking to the people I did, it seemed to me  
25                   that it was possible that yes, proceeds of crime

1 is a risk, but it also might be -- but there  
2 also may be other explanations where this cash  
3 is coming from. We just didn't know.

4 So at this stage I wasn't so much concerned  
5 about reputation. You know, that might have  
6 been in the back of my mind, but my main focus  
7 is we just don't know; we need to understand  
8 better. And I think moving through this  
9 particular document and then subsequently having  
10 many more conversations with Mr. McCrea, who I  
11 believe was the author of this document, gave  
12 rise to me believing we really needed to do a  
13 better job of analysis, creating an analytical  
14 unit, creating an AML unit. It was all part of  
15 understanding this challenge that we're facing  
16 with cash coming into casinos better.

17 Q And so -- but as recently as -- sorry, I  
18 shouldn't say recently. But, you know, you're  
19 talking about well, I was only one month into  
20 the job, but even in 2015 you recall still  
21 advocating these same suggestions. You said in  
22 an email in 2015:

23 "The vast majority of our Chinese players  
24 have an income stream generated from BC  
25 investments or businesses, but despite



1                                   that many still prefer to deal in cash.

2           A     Yes.

3           Q     So in 2015, two years later, you're still  
4                   reiterating that initiative, aren't you?

5           A     What I'm reiterating is that in my respectful  
6                   opinion that the question rather than  
7                   becoming -- having more clarity, actually was  
8                   the opposite. So as we started to move forward,  
9                   particularly in 2015, understanding that it was  
10                  going to be really difficult to figure out where  
11                  what money was coming from where and how we were  
12                  going to -- how we were going to deal with it,  
13                  the best course of action would be to lower our  
14                  risk tolerance around cash, particularly cash  
15                  coming in from cash facilitators and ultimately  
16                  that included MSBs, at the same time over the  
17                  preceding year or so educating players in the  
18                  different ways of consuming our products using  
19                  other noncash means.

20                                When I came into BCLC in 2013 as you're  
21                                aware up until 2011, 2012, where there was a  
22                                pilot for the patron gaming funds, prior to that  
23                                this was a cash-based business, and, Ms. Hughes,  
24                                it's a cash-based business today. The last year  
25                                casinos were operating we took more in in cash

1                   than ever before, or very close. We have to  
2                   figure a way to move players away from that.  
3                   And as I mentioned here not just because it  
4                   represents an AML issue, but it's also just the  
5                   right thing to do. Cash is unwieldly; it is  
6                   difficult to manage. It does create  
7                   reputational problems. There's player health  
8                   issues. There's business operations issues.  
9                   There's a thousand reasons why we need to move  
10                  away from cash. I don't think anybody disputes  
11                  that. And I went off on a tangent there. I  
12                  apologize, Mr. Commissioner.

13                  Q     Certainly.

14                                 Mr. Commissioner, I'll flag I am approaching  
15                                 the end of my time, and given the length of some  
16                                 of the witness's answers I do expect I will need  
17                                 an additional five to 10 minutes, but I will be  
18                                 attempting to wrap up as quickly as possible.

19                  THE COMMISSIONER: All right. Thank you, Ms. Hughes.

20                  MS. HUGHES:

21                  Q     I'd like to ask you now, Mr. Desmarais, about a  
22                                 ministerial directive, a letter that you  
23                                 reference in paragraph 54 of your affidavit.

24                  A     Yes.

25                  Q     And there you mention the October 1st, 2015

1 letter from Minister de Jong?

2 A Yes. I'm sorry what page is that --

3 Q And we can remove --

4 A 54?

5 Q Paragraph 54, yes. And you understood that  
6 letter to be directing BCLC to evaluate the  
7 source of wealth and source of funds prior to  
8 cash acceptance; is that right?

9 A Yes.

10 Q And you understood that Minister de Jong was  
11 requiring BCLC to conduct source of funds  
12 requirements to assess the source of funds  
13 before it took in the cash at the cash cage;  
14 right?

15 A Yes.

16 Q And you understood this requirement to apply to  
17 all players; right?

18 A Yes.

19 Q And if Mr. Lightbody testified that he  
20 understood this direction to mean source of  
21 funds only for high-risk patrons I take it you  
22 would say you had a different understanding than  
23 he did. Is that fair?

24 A My recollection of the letter, and I'm afraid I  
25 don't have it in front of me.

1 MR. BUTCHER: It's exhibit 13 to your affidavit.

2 THE WITNESS: My recollection of this letter --

3 MS. HUGHES:

4 Q You're looking for point number 3.

5 A Sorry?

6 Q You're looking for point number 3?

7 A Yes, point number 3. So when I read this, and  
8 although I was no longer in the chair at that  
9 point, Mr. Kroeker was, this was a direction and  
10 that ultimately we would move towards that. The  
11 really good news is that we'd already started.  
12 And this was just confirmation, I suppose, that  
13 we were on the right track, that we had in fact  
14 started to require on a more ad hoc basis in  
15 2014, source of funds and source of wealth.  
16 Moving forward in 2015 of course that -- the  
17 tempo picked up. So this was good news for us.  
18 I thought that -- I thought that this directive  
19 was appropriate.

20 Now, there are challenges with it. For  
21 instance, if somebody walks into a casino with  
22 more than \$10,000, and we were to -- and we were  
23 to a certain source of wealth, which can be a  
24 fairly lengthy process, fairly analytical and  
25 analytically deep process as well as source of

1 funds, that was problematic. But I think my  
2 recollection of this is that at some point we  
3 were going to be able to deal with that. And I  
4 think we did. When you look at the state of  
5 the -- when you look at the state of the  
6 suspicious transactions and large cash  
7 transactions by 2017.

8 Q All right. Is it fair to say that -- moving on  
9 to another topic then, Mr. Desmarais. Is it  
10 fair to say, though, that prior to January 2018  
11 when Mr. German's interim recommendation was  
12 implemented, BCLC consistently pushed back or  
13 advocated against putting limits on cash coming  
14 into casinos in its discussions with the  
15 government?

16 A No. I would say that -- putting limits on cash?

17 Q Yes, like a cash cap.

18 A I believe that we had the discussion to -- I  
19 believe Mr. Kroeker, Mr. Lightbody and I had a  
20 discussion about imposing a cash cap in 2017.  
21 We felt that player behaviour had changed to the  
22 point where the time was right that the large  
23 cash transactions had fallen off a cliff. The  
24 suspicious transactions had fallen off a cliff,  
25 I want to say had dropped by 80 or 85 percent,

1 something like that, although please don't take  
2 that as 100 percent. And that we were already  
3 doing that -- we were already assuming a source  
4 of funds and a source of wealth and a risk  
5 assessment on virtually every player, and we set  
6 that cap -- actually, this is Mr. Kroeker's  
7 doing, but my recollection is that we set that  
8 at \$50,000. So it was already well underway.

9 Moving to \$10,000 I think ended up having  
10 some unintended consequence, not all of them  
11 positive. But it was a relatively  
12 straightforward exercise because we were already  
13 doing it. It just required more volume. It was  
14 just more volume

15 Q So and fair enough. You're speaking of what  
16 happened in 2017. But certainly back in 2015  
17 and 2016 I think it's fair to say that BCLC was  
18 resistant to GPEB proposing to tie AML measures  
19 to reduction in cash as a percentage of buy-ins,  
20 wasn't it? Perhaps I'll direct you to  
21 exhibit 69 of your affidavit. And so here you  
22 have email correspondence between yourself and  
23 Mr. McCrea, and at the bottom of page 491 we see  
24 that Mr. McCrea has proposed language for  
25 GPEB --

1 A Sorry.

2 Q Should be exhibit 69, page 491 of your  
3 affidavit.

4 A Oh, 69. I'm sorry. My apologies. Yes.

5 Q So at the bottom of the second page.

6 A Yes.

7 Q Mr. McCrea is writing to you to talk about  
8 language for BCLC's 2015/2016 mandate letter?

9 A Yes.

10 Q And some of the language he proposes is that:

11 "BCLC will identify and implement  
12 strategies to increase the use of cash  
13 alternatives as a percentage of total  
14 buy-ins at BC gaming facilities."

15 Do you see that?

16 A Yes.

17 Q And then if you turn back to the first page, in  
18 your response -- this is about mid-way through  
19 the page.

20 A Yes.

21 Q You push back on that suggestion, and you say:

22 "First, if GPEB provides AML direction  
23 then they also must accept responsibility  
24 for any reduction in revenue for  
25 directives imposed without due regard for

1                   business, cultural and money laundering  
2                   typology risks. Second, if GPEB imposes  
3                   this then there must be acknowledgement  
4                   that many cash play factors are beyond  
5                   BCLC's control, with the possible  
6                   exception of banning currency at  
7                   prescribed levels which, of course, would  
8                   lead to drops in revenue."

9           A     That's correct.

10          Q     See that?

11          A     Yes. So may I respond to that?

12          Q     That's another -- certainly.

13          A     So in this particular case back in 2014, we were  
14                just in the midst of educating players on  
15                changing from a cash-based play to a play with  
16                other means, whether it be PGF. We were hoping  
17                other cash alternatives were going to be  
18                implemented.

19                        What I'm saying to Mr. McCrea here --  
20                Mr. McCrea and I had an excellent relationship.  
21                We had I think a frank, collegial discussion.  
22                We often disagreed with each other. We never  
23                disagreed that the ultimate goal should be  
24                reduction in cash. I think the only  
25                disagreement we had is when. And my point here



1 is it might be just a bit too soon.

2 Q All right. And --

3 A We hadn't completed the analysis.

4 Q But this is yet, and I put it to you, another  
5 reiteration of attempts to downplay the risk,  
6 wasn't it? You're saying -- here, again, we see  
7 you saying there's a cultural preference for  
8 cash and using proceeds of crime to gamble  
9 doesn't fit the typical money laundering  
10 typology. It's coming back to the same factors  
11 or narratives we discussed earlier on in your  
12 evidence today, isn't it?

13 A I would say that it's not downplaying, it's  
14 simply restating factors that should be  
15 considered within the risk. I think you'll find  
16 right back to 2013 I was advocating for  
17 100 percent known play and reduction in cash, if  
18 not elimination of cash. But it's an evolution.  
19 It's a journey. And if GPEB had felt that -- at  
20 this stage that the time was right, then in my  
21 respectful submission they should have told us  
22 in a more formal manner.

23 This was a discussion between Mr. McCrea  
24 and I, and it was a fruitful discussion, and as  
25 I said before, I regret that he's no longer with

1                   GPEB because I think we would have been further  
2                   along than we are now had he been there.

3           Q       And your attempt to try and frame AML issues  
4                   being tied to reduction in cash as problematic,  
5                   that continued on into 2017, and at one point  
6                   you even tried to frame the concern as one of  
7                   job losses for service providers, didn't you?  
8                   Do you recall that?

9           A       I don't recall that, no. Can you take me to a  
10                   document?

11          Q       Of course.

12                   Madam Registrar, could I have BCLC6659,  
13                   please. So what you should have here -- and if  
14                   you could scroll to the bottom, please, Madam  
15                   Registrar.

16                   It's an email from you to Robert Scarpelli  
17                   at HLT. Do you see that?

18          A       Yes.

19          Q       Yes. And you're asking him if Jim M has some  
20                   capacity to figure out what the SP -- service  
21                   provider, I take it.

22          A       Yes.

23          Q       "-- job loss would be if we eliminated  
24                   cash over 10K in casinos or elimination of  
25                   HL --"



1                   wouldn't put a negative or necessarily -- I  
2                   guess it would be negative to employees, but I  
3                   wouldn't put a negative or a positive  
4                   connotation on that. This is just part of the  
5                   work we did around okay, if we put a cash cap  
6                   in, what does that mean. And I spoke earlier of  
7                   unintended consequences. Job loss might be an  
8                   unintended consequence. But that would also  
9                   give the service providers the opportunity to  
10                  repurpose those roles into perhaps something  
11                  else. But this was just a question. It  
12                  wasn't -- I wasn't advocating anything.

13                MS. HUGHES:

14                Q    I take it, then, you'll disagree with me if I  
15                  suggest to you that you intended to use  
16                  potential job losses to dissuade government from  
17                  imposing a cash cap when the real concern  
18                  remained impact on revenues?

19                A    I would say -- yes, I would disagree with you.  
20                  That's my recollection of why I wrote that.

21                MS. HUGHES: Thank you, Mr. Commissioner. I have no  
22                  further questions for this witness.

23                THE COMMISSIONER: Thank you, Ms. Hughes.

24                THE WITNESS: Thank you, Ms. Hughes.

25                THE COMMISSIONER: I'll now call on Ms. French on

1                   behalf of Canada, who has been allocated  
2                   20 minutes.

3                   MS. FRENCH: Thank you, Mr. Commissioner.

4                   **EXAMINATION BY MS. FRENCH:**

5                   Q     Good morning, Mr. Desmarais. Can you hear me  
6                   all right?

7                   A     I can hear you fine. Thank you, Ms. French.

8                   Q     Thank you. Mr. Desmarais, I just want to take  
9                   you back to some of your testimony from  
10                  yesterday.

11                  A     Sure.

12                  Q     You had discussed the information-sharing  
13                  agreements with police and you had described  
14                  them as being critical to BCLC's anti-money  
15                  laundering program; is that right?

16                  A     Yes.

17                  Q     And the first such agreement was entered into in  
18                  around January 2014; is that what you recall?

19                  A     Yes. Although the work on that had occurred  
20                  much earlier. It took a while.

21                  Q     Following the implementation, then, of the  
22                  information-sharing agreement in 2014 you wrote  
23                  a letter to a number of RCMP detachments across  
24                  the province; is that correct?

25                  A     I did.

1 Q And I'd like to go to exhibit 43, please, of  
2 your affidavit where you append these letters.

3 THE REGISTRAR: Ms. French, would you like me to  
4 bring it up on the screen?

5 MS. FRENCH: Yes, please, Madam Registrar.

6 Q And Mr. Desmarais, my understanding is that  
7 exhibit 43 appends all the letters that you sent  
8 to various RCMP detachments, but they're  
9 basically similar letters. Is that correct?

10 A Yes.

11 Q So we can just review the first one here, which  
12 starts on page 205, I believe, and it's  
13 BCLC7676. You had explained the goal of these  
14 letters to the Commissioner yesterday, so I  
15 won't take you back over that, but I do want to  
16 focus on one paragraph on page 2, so that's page  
17 with 206 in the top right-hand corner. And the  
18 second paragraph there. So in this paragraph --

19 A Yes.

20 Q -- you're seeking support from a CFSEU uniform  
21 division to act as first responders; is that  
22 correct?

23 A Yes.

24 Q And under what circumstances did you think that  
25 the CFSEU uniform team would act as first

1 responders for BCLC?

2 A At this time those details had yet to be worked  
3 out.

4 Q In your commission -- in your conversation with  
5 the -- in your testimony yesterday with  
6 commission counsel, you said that you didn't  
7 recall how many times CFSEU had been called to  
8 act as first responders in response to a money  
9 laundering event at BC casinos; is that correct?

10 A That's correct.

11 Q Do you personally know if the CFSEU was in fact  
12 ever called to act as first responders to a  
13 money laundering event at a BC casino?

14 A I believe CFSEU was -- now, Mr. Commissioner,  
15 I'm going to -- I want to be completely  
16 transparent here. My recollection is likely  
17 third hand, from third-hand information. It is  
18 my recollection that I was advised that CFSEU  
19 attended on one or two occasions to River Rock,  
20 although I can't recall the specific -- the  
21 specifics of it.

22 Q And it would be fair to say you can't recall  
23 whether that was specifically in response to  
24 something related to money laundering?

25 A Yes, I can't recall, if I ever knew.

1 Q Thank you, Mr. Desmarais. I'm just looking at  
2 the last sentence of that same paragraph which  
3 I'll read into the record:

4 "BCLC is aware that CFSEU is overtasked in  
5 many respects and the attendance of the  
6 uniformed division members would be  
7 subject to other operational priorities."

8 Did I read that correctly?

9 A You did.

10 Q And so at this time you were aware that the  
11 CFSEU uniformed division had a lot of demands on  
12 their resources?

13 A Yes.

14 Q And you aren't expecting them at this time to  
15 become exclusive casino security, were you?

16 A Oh, no, absolutely not. There was a level of  
17 frustration, though, and I quite frankly  
18 inappropriately offered to pay their overtime  
19 to spend -- if they were coming on their days  
20 off. The RCMP quite properly declined that.

21 Q I understand. And likewise, then, you weren't  
22 expecting them to become personal investigators  
23 for BCLC; is that correct?

24 A No.

25 Q And based on your law enforcement experience



1                   you'd agree that it's often true that there are  
2                   many competing operational priorities for law  
3                   enforcement units like CFSEU at any given time?

4           A     Yes.

5           Q     And it's not unusual for a unit such as CFSEU to  
6                   have a lot of demands on their resources; is  
7                   that true?

8           A     I would agree with that.

9           Q     Going back, again, to something that you said in  
10                  your testimony with Ms. Latimer yesterday, you  
11                  noted that you required something more than  
12                  scant suspicion before being able to determine  
13                  that suspicious cash in casinos were the  
14                  proceeds of crime; is that correct?

15          A     Yes.

16          Q     And you recall that BCLC presented the CFSEU  
17                  with a target sheet of the top 10 cash  
18                  facilitators in or around July 2014?

19          A     Yes.

20          Q     Do you recall the contents of those target  
21                  sheets?

22          A     Not specifically, no. They were prepared by --  
23                  I believe they were prepared by Mr. Tottenham  
24                  and Mr. Karlovcec.

25          Q     I think it might be helpful, then, if we can go

1                   to the exhibit. I'll ask you, Mr. Tottenham,  
2                   [sic] to go to exhibit 45 to your afford.

3                   But Madam Registrar, please don't turn this  
4                   one up. Thank you.

5                   Now, you note in your affidavit -- this is  
6                   just for the benefit of Mr. Commissioner -- that  
7                   there is a redacted version of this attached to  
8                   your affidavit, but the exhibit attached to your  
9                   affidavit is not in fact redacted. The  
10                  unredacted version is the correct version is my  
11                  understanding.

12                 MR. BUTCHER: Sorry, which paragraph are you  
13                  referring to?

14                 MS. FRENCH: I'm at exhibit 45 and that is  
15                  paragraph 71. And you just note that "all of  
16                  which have been redacted at RCMP's request" and  
17                  I'm just confirming that the RCMP removed these  
18                  redactions and the copy appended to the  
19                  affidavit is the correct copy without  
20                  redactions.

21                 MR. BUTCHER: That appears to be our ...

22                 MS. FRENCH:

23                 Q     Do you have that in front of you now,  
24                         Mr. Tottenham [sic] -- or Mr. Desmarais. My  
25                         apologies.

1 THE WITNESS: It's okay. I've been called worse.

2 MS. FRENCH:

3 Q We're looking at this target sheet here. And  
4 just to look at one as an example, it's provides  
5 a BC driver's licence number, BCLC subject  
6 profile, identification number, occupation,  
7 address, vehicle attached to the profile and  
8 potentially associates as well as a photo; is  
9 that correct?

10 A That's correct.

11 Q So I'm just wondering, Mr. Desmarais, if you can  
12 put yourself back in your role as a law  
13 enforcement officer and if you had received this  
14 kind of information, what are the steps you  
15 would have had to take in order to advance an  
16 investigation, and accepting your commitment  
17 earlier not to give us a heart attack by  
18 divulging investigative techniques. Just the  
19 general steps you'd have to take.

20 A It would have been subject to a -- I'm not sure  
21 what -- what terminology the RCMP use, but if  
22 this had been presented to me in IPOC, I would  
23 have had an analyst do a triage on it and do  
24 essentially a deep dive. Presumably BCLC would  
25 have already provided the open source

1 information related to this individual. It's of  
2 course is available in the public domain, but I  
3 would have had my -- I would have had my  
4 criminal analyst do a deep dive on to it to  
5 determine whether this met the criteria for  
6 immediate action, something that we're going to  
7 work on off the sides of our desks, or something  
8 that we just aren't going to deal with.

9 Q And in passing this information, say, onto your  
10 analyst you would have needed to run the names,  
11 maybe driver's licences through a number of  
12 police databases; is that correct?

13 A Now, are you talking about my capacity at BCLC  
14 or the RCMP?

15 Q During your time with IPOC.

16 A That would have been the very bare -- that would  
17 have been the very bare first level check, I  
18 guess, would be the best way to describe it.

19 Q And cross referencing with other sources of  
20 information maybe like FINTRAC disclosure  
21 packages?

22 A FINTRAC disclosure packages probably would have  
23 been one of the first steps that they would have  
24 taken.

25 Q So there were a number of steps to look into the

1 background, the information, that law  
2 enforcement already had, and then would  
3 something like a lifestyle have been conducted?

4 A It's really hard to say. Lifestyle reviews --  
5 and, again, I'm worried I'm starting to stray  
6 into that heart attack region we were talking  
7 about earlier.

8 Q You can just give it a high level overview.

9 A Okay. They're time consuming. And so they  
10 would already have had a -- without getting into  
11 how they do that, it would have already had to  
12 have bubbled closer to the surface, I guess, in  
13 terms of priority. I hope -- is that what -- is  
14 that the answer you're looking for?

15 Q That is your answer, and --

16 A Okay.

17 Q -- it is around the area that I'm looking  
18 for and I think that just --

19 A I'm sorry. Did I answer your question?

20 Q Yes. Yes, you did. Thank you, Mr. Desmarais.

21 A Okay.

22 Q And just to confirm, a lifestyle is where police  
23 officers will look into the backgrounds perhaps  
24 by conducting surveillance or by following an  
25 individual for a while just to see, you know,

1                   who they're associated with, where they go and  
2                   things like that?

3           A     Yes.

4           Q     And you would agree that all of these things --  
5                   there is a number of steps before law  
6                   enforcement can move beyond a scant suspicion to  
7                   determine whether or not something like cash at  
8                   a casino is linked to proceeds of crime?

9           A     Yes.

10          Q     And so similar to how BCLC investigators were  
11               not able to determine just at a glance that the  
12               cash on casino premises were proceeds of crime,  
13               likewise law enforcement would have had to take  
14               at least all of these additional steps in order  
15               to make that connection?

16          A     They would have taken different steps, yes, that  
17               would not be available to BCLC investigators or  
18               analysts.

19          Q     And yesterday and today as well you noted that  
20               it took BCLC time to develop its anti-money  
21               laundering approach as opposed to just adopting  
22               the blanket ban proposed by GPEB in 2010?

23          A     Yes.

24          Q     And you would agree, too, that it takes  
25               significant time and resources for law

1 enforcement to develop an investigation?

2 A Yes.

3 Q You've also testified in regards to the  
4 information-sharing agreement, but once you  
5 became aware that FSOC was conducting  
6 investigation, that often the flow of  
7 information, it's appropriate for it to go one  
8 way, that is in this case from BCLC to RCMP.  
9 Would you agree?

10 A Yes.

11 Q And it's not always appropriate for law  
12 enforcement to share information with the  
13 public?

14 A Absolutely.

15 Q And can you maybe just give the Commissioner  
16 some examples of when it is not appropriate or  
17 the kinds of information that's not appropriate  
18 for law enforcement to share with the public?

19 A Whether it be the public or BCIC -- or BCLC is  
20 when the investigation is in flight. And,  
21 Mr. Commissioner, particularly there are certain  
22 investigative techniques, many technical  
23 investigative techniques where the police are  
24 actually precluded from sharing with anyone  
25 without a need to know under -- by statute. One

1                   of the challenges, I think, with police  
2                   investigations is always security of  
3                   information.

4                   Now, in this particular -- with respect to  
5                   BCLC, I think the police regarded -- although it  
6                   was my team that we were dealing with -- once  
7                   FSOC took the file on I think there was an  
8                   enhanced understanding of the general direction  
9                   of the investigation because the team was  
10                  providing information to FSOC during the course  
11                  of their investigation, I think primarily under  
12                  the authority of the information-sharing  
13                  agreement, but there may have been production  
14                  orders. I'm not certain. Does that answer your  
15                  question?

16                 Q     Yes, thank you, Mr. Desmarais. And there might  
17                         be times still when law enforcement should not  
18                         share the names of people involved in an  
19                         investigation?

20                 A     Yes.

21                 Q     Or the names of people arrested in the course of  
22                         an investigation?

23                 A     I have a bit of a problem with the last one.  
24                         Particularly if in our circumstance if you're  
25                         alluding to the nine people that were arrested,



1 I think -- and this was -- I was no longer in  
2 the chair at that time for a corporate -- for  
3 legal compliance and security; however, we did  
4 have an information-sharing agreement in place.  
5 We did have protections in place to conceal the  
6 identity of where that information had come  
7 from. We didn't know the level of dangerousness  
8 of these individuals, nor did we want them in  
9 our casinos. We took a great -- we took great  
10 pains to proactively ban people from our casinos  
11 who we thought fit into those three categories.  
12 I won't go into them again. So I do have a bit  
13 of a problem with not sharing information with  
14 another public body, which we are, where  
15 there's, I think, in my respectful opinion a  
16 need to know.

17 But I understand the RCMP may have a  
18 differing view, and I respect that.

19 Q And at this time in 2017 BCLC was still  
20 receiving the PTEP list; is that correct?

21 A That's correct.

22 Q And you still had an understanding with RCMP  
23 detachments to be notified of individuals in the  
24 community who may pose a risk to casinos or  
25 casino patrons?

1 A Yes.

2 Q I'd like to move on now to discuss the chip  
3 swap. In your testimony yesterday you discussed  
4 a meeting that you had with Cal Chrustie in  
5 February 2015. Do you recall that?

6 A Yes.

7 Q And did you have a good working relationship  
8 with Mr. Chrustie?

9 A Yes. Mr. Chrustie, being absolutely  
10 transparent, Mr. Chrustie and I were friends.

11 Q And during this meeting in February 2015 with  
12 Mr. Chrustie you discussed BCLC's concerns about  
13 cash facilitators in BC casinos; correct?

14 A Yes.

15 Q And yesterday you testified that Mr. Chrustie  
16 said he would have his unit look into the  
17 information BCLC had shared. Do you recall  
18 that?

19 A Yes.

20 Q If we could just go briefly to paragraph 76 of  
21 your affidavit, Mr. Desmarais. And that first  
22 sentence you write:

23 "I met with Cal Chrustie of FSOC on a  
24 Sunday in February 2015, and he agreed to  
25 commence an investigation."

1                    Would you say that Mr. Chrustie agreed to take  
2                    the information you had shared back to his unit?

3            A        Yes. I think that's -- I would say that that is  
4                    more of an appropriate -- that's more -- that  
5                    would be correct, yes.

6            Q        At the time of this meeting with Mr. Chrustie in  
7                    February 2015, was BCLC already planning the  
8                    chip swap?

9            A        Yes.

10           Q        Because it was in the previous fall, fall of  
11                    2014, was it not, that BCLC started to be  
12                    concerned about the large number of chips  
13                    leaving casinos?

14           A        Yes.

15           Q        And by mid-spring 2015 the chip swap was  
16                    underway, or the chip swap planning was  
17                    underway?

18           A        Planning was underway.

19           Q        And during your meeting with Mr. Chrustie do you  
20                    recall if you mentioned the planning of the chip  
21                    swap?

22           A        No, I don't recall. The meeting with Mr.  
23                    Chrustie and I was informal, collegial. We met  
24                    for coffee on a Sunday morning, like we often  
25                    did at the time, and he agreed that he would

1 connect his folks with my folks. And that's  
2 what happened. And I think the subsequent  
3 meeting occurred in -- later on that week.

4 Q And it was a couple months later that BCLC  
5 received confirmation that FSOC had started an  
6 investigation?

7 A Well, there was an interruption in the middle  
8 where my staff received word from one of  
9 Mr. Chrustie's senior staff members that the  
10 RCMP were considering abandoning this  
11 investigation, and in response to that, BCLC  
12 staff created a money laundering presentation on  
13 why I guess essentially it's important to  
14 investigate money laundering, and delivered  
15 that -- didn't present it, but delivered it to  
16 Mr. Chrustie's staff. Shortly thereafter the  
17 investigation reignited.

18 Q And during this time you didn't mention the chip  
19 swap to FSOC or to Mr. Chrustie?

20 A I did not, but Mr. Chrustie and I were a bit far  
21 from the pointy end of the stick on this one.  
22 We expected that our staff would be keeping each  
23 other fully involved or fully informed. I can't  
24 speak to whether they disclosed the chip swap or  
25 not.

1 Q Are you aware that in July of 2015 FSOC told  
2 Mr. Alderson that BCLC should keep FSOC in the  
3 loop regarding any action BCLC planned in case  
4 it would interfere with their ongoing  
5 investigation?

6 A I recall something like that.

7 Q And do you recall if you directly told FSOC  
8 about the planned chip swap at any point?

9 A No, I did not.

10 Q And do you know if anyone at BCLC explained  
11 directly the purpose of a chip swap to FSOC?

12 A No. And when -- I think when GPEB took it on  
13 themselves to explain it to FSOC in 2020  
14 hindsight, I sincerely wished that a BCLC  
15 representative had been present because I think  
16 the RCMP may have taken a different view.

17 Q So it was BCLC relayed notice of the chip swap  
18 to GPEB about two to three weeks before the chip  
19 swap; is that correct?

20 A Yes. I believe that they were aware of the  
21 impending chip swap because it had never been  
22 done before -- not in this context -- so I  
23 believe they were aware that we were marching  
24 down that road earlier, but I think the plan,  
25 the formalized plan came together and they

1                   became privy to it a few weeks ahead of time.

2           Q       And BCLC relied on GPEB to pass this information  
3                   on to FSOC?

4           A       Now, my thought is that this information would  
5                   have been -- would have been relayed to all the  
6                   stakeholders. And I'm not sure we relied on  
7                   GPEB to do it. I know that my staff was meeting  
8                   with -- still meeting with RCMP staff, so I just  
9                   would have expected that this information would  
10                  have surfaced in a -- in the ordinary normal  
11                  course of that relationship, but I can't speak  
12                  to whether it was done formally.

13          Q       So you can't confirm for certain whether BCLC  
14                   directly told FSOC about the chip swap prior to  
15                   it happening?

16          A       I cannot confirm that.

17          Q       And you personally did not tell FSOC or explain  
18                   the purpose of the chip swap?

19          A       I don't believe I did.

20          Q       Thank you, Mr. Desmarais.

21          MS. FRENCH: Mr. Commissioner, those are all my  
22                   questions.

23          THE COMMISSIONER: Thank you, Ms. French.

24                   I'll now call on Mr. Smart on behalf of the  
25                   British Columbia Lottery Corporation, who has

1                   been allocated 30 minutes.

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

3                   Mr. Commissioner, is our video on?

4           THE COMMISSIONER: Yes, I can certainly see you,

5                   Mr. Smart.

6           MR. SMART: Thank you.

7           **EXAMINATION BY MR. SMART:**

8           Q     Mr. Desmarais, you stated in your affidavit that  
9                   one of the reasons when you left police and  
10                  joined BCLC was you wanted to make a positive  
11                  contribution to the public?

12          A     Yes.

13          Q     Can you just explain that further, please.

14          A     Well, throughout my career in policing,  
15                  Mr. Smart, when you look at the trajectory of  
16                  how my career went, you might take the view that  
17                  I couldn't really hold a job, but in fact what I  
18                  did is I went to jobs that I felt I had an  
19                  aptitude and an aptitude to do and do well as  
20                  well as -- as well as make a difference. I  
21                  think that's been something that I've done  
22                  throughout 42 years of my adult working life.  
23                  And when the BCLC opportunity opened up and I  
24                  was contacted for this role, it checked those  
25                  boxes in the sense that it was still -- it was

1 something that was something that contributed  
2 to, you know, to the Province of British  
3 Columbia, and it was also intriguing to me, and  
4 I thought that I could do a good job at it.

5 Q You wanted to make what I'll say is a positive  
6 contribution to the public good?

7 A That would be a good way to describe, to explain  
8 it, yes.

9 Q Not notwithstanding Ms. Hughes' questions to  
10 you, some of the questions she asked you, has  
11 that remained the principle that's guided  
12 decisions you've made at BCLC, making a positive  
13 contribution to the public good?

14 A Yes, as a first priority, and as a second  
15 priority taking care of the people that work for  
16 me, because I have a spectacular team.

17 Q You set out in your affidavit that before you  
18 joined BCLC you had 33 years in law enforcement  
19 working with both the RCMP and the Vancouver  
20 Police Department?

21 A Yes.

22 Q You spent much of your career investigating --  
23 your police career investigating money  
24 laundering, proceeds of crime, drug trafficking  
25 and organized crime. Am I accurate?



1 A Yes.

2 Q This included almost 15 years in the Integrated  
3 Proceeds of Crime section, IPOC, as an  
4 investigator and then an inspector during which  
5 time you [indiscernible] a major money  
6 laundering operations and proceeds of crime  
7 investigations first as an investigator and then  
8 as inspector in charge of the unit?

9 A No, not inspector in charge of the unit. As a  
10 major case manager, an inspector, major case  
11 manager, and as an operations officer.

12 Q 15 years in IPOC, though; correct?

13 A Yes.

14 Q Some of these were major investigations,  
15 investigations that attracted significant media  
16 attention and resulted in charges against  
17 businessmen and even lawyers?

18 A Yes.

19 Q You worked with law enforcement in different  
20 countries investigating money laundering,  
21 proceeds of crime and organized crime?

22 A That's correct.

23 Q Yes. You've been qualified -- I'm sorry, you  
24 received commendations from the RCMP and the FBI  
25 for your work combatting money laundering and

1 organized crime?

2 A Yes.

3 Q You've been qualified in criminal proceedings to  
4 give expert evidence on indicators and  
5 characteristics of money laundering?

6 A Yes.

7 Q You've lectured on money laundering to lawyers  
8 and police officers across Canada as well as  
9 other countries?

10 A Yes, that's correct.

11 Q And you've brought all of that experience with  
12 you when you joined BCLC?

13 A That's correct.

14 Q And when you -- just when you started, what was  
15 your approach at BCLC that started this new  
16 position that you had as a Vice President?

17 A So it was consistent with the way I approached  
18 all the other jobs I've had. As I mentioned I  
19 switched jobs, switched major jobs a few times  
20 during the course of my career, and that is in  
21 the very beginning there's a -- there's a phase  
22 where it is basically seeking to understand.  
23 Understanding the landscape, understanding the  
24 drivers of what the issues are, understanding  
25 the people and the organization, and where the

1 risks are and as well as speaking with all the  
2 stakeholders that were relevant. That takes  
3 months.

4 Q One of the -- well, you know, one of the issues  
5 you learned about were these large suspicious  
6 cash transactions that were occurring at  
7 casinos?

8 A That's correct.

9 Q And despite your many years in policing and  
10 focusing on money laundering and proceeds of  
11 crime, you didn't believe that there was  
12 large-scale money laundering occurring in  
13 casinos?

14 A So I initially looked at the -- looked at the  
15 casino environment within the four walls and  
16 couldn't identify, given the controls that I  
17 understood to be in place, couldn't identify a  
18 money laundering typology that I recognized.  
19 Now, that didn't mean that there wasn't one  
20 there. It just means that I didn't recognize it  
21 and that I needed to understand it better.

22 Q And you were unsure whether the cash that was  
23 coming into the casinos was the proceeds of  
24 crime?

25 A Yes. I think as time -- I know as time marched

1           on and as I looked into this more deeply, the  
2           landscape, as I mentioned earlier, became more  
3           confused. Rather than gaining clarity, which is  
4           always the end result of this first stage  
5           process that I go through in taking on a new  
6           job, it actually became more confused, that --  
7           that amongst other things, cash was -- cash was  
8           a real challenge because we couldn't point to  
9           any particular source. We couldn't point to any  
10          particular methodology that how this -- or that  
11          this was -- how it was making its way into the  
12          facility, and I felt like we needed -- that  
13          became almost job one, to try to determine what  
14          exactly was going on.

15          Q     You were shown a letter yesterday by commission  
16                counsel from Derek Dickson dated November 24th,  
17                2010, dealing with one particular patron. I'm  
18                not going to take you to it at this point.

19          A     Okay.

20          Q     One particular patron and Mr. Dickson made some  
21                suggestions that BCLC shouldn't -- this is  
22                exhibit 110, just for the record.

23          A     Yes.

24          Q     BCLC shouldn't accept \$20 bills in excess of  
25                \$10,000. Had you read that -- were you --

1                   sorry, had you read that letter prior to  
2                   preparing to testify here for the commission?

3           A        I don't recall if I read that letter prior to  
4                   testifying for this commission. It looks  
5                   familiar, but I certainly reviewed it once I --  
6                   once I was preparing for this commission.

7           Q        He refers there to some information he states he  
8                   received from IPOC. Did Mr. Dickson -- when you  
9                   started -- it states that in the letter, but  
10                  when you started at BCLC and during your time at  
11                  BCLC, did Mr. Dickson or anyone in GPEB's  
12                  investigation section tell you that these large  
13                  cash transactions were the proceeds of crime?

14          A        Mr. Schalk advised me that he thought that they  
15                   were the proceeds of crime.

16          Q        Okay. Did you accept that opinion?

17          A        No. No. Not on the face of it.

18          Q        Did anyone in IPOC tell you that this large cash  
19                   transactions were the proceeds of crime?

20          A        No.

21          Q        Mr. Vander Graaf, who was Mr. Schalk's boss, I  
22                   would say or superior, he told the commission  
23                   that GPEB could not -- let me just set this up.  
24                   You know from your police experience that there  
25                   are different levels of proof in the criminal

1 justice system. There's reasonable suspicion,  
2 which allows police to obtain certain orders and  
3 take certain steps. There's proof -- reasonable  
4 and probable grounds, which allows police to  
5 arrest, proceeds of crime to be seized, warrants  
6 to be obtained, and then there's proof beyond a  
7 reasonable doubt, which of course is the  
8 criminal standard that applies in court. Now,  
9 Mr. Vander Graaf told the commission that GPEB  
10 could not establish even on a balance of  
11 probabilities that any particular large cash  
12 transaction was the proceeds of crime. I expect  
13 you agree with that assessment from Mr. Vander  
14 Graaf.

15 A I do agree with that, yes.

16 Q Now, I want to take you to paragraph 28 of your  
17 affidavit. And I should -- before I ask you  
18 that, did you understand that it's government's  
19 role in gaming to set policy direction for -- to  
20 ensure that the social and economic priorities  
21 for gaming are achieved?

22 A Yes.

23 Q And do you understand that BCLC's responsibility  
24 is to enhance financial performance, integrity,  
25 efficiency and sustainability of the gaming

1 industry within the policy framework established  
2 by the Province of British Columbia?

3 A Yes. We refer that in a much shorter -- we  
4 refer to in a much shorter manner is our job is  
5 to responsibly generate revenue.

6 Q Yes. But you take -- BCLC doesn't have a free  
7 hand. It takes direction from government?

8 A BCLC has a board, and we take direction from the  
9 board. Occasionally government -- occasionally  
10 government exerts pressure on the board to  
11 direct us.

12 Q Paragraph 28 you state:

13 "BCLC has a mandate to optimize financial  
14 performance."

15 Where does that mandate come from, to your  
16 understanding, Mr. Desmarais?

17 A The earliest that I can recall was a letter -- a  
18 2008 letter to BCLC. I can't quote it off the  
19 top of my head, but this was something that was  
20 discussed -- it was discussed at board. It was  
21 discussed at the executive table. It was  
22 something that was just a given.

23 Q Okay.

24 "BCLC has a mandate to optimize financial  
25 performance. The revenue generated by

1 BCLC pays for hospitals, schools,  
2 community programs, charities and other  
3 important social causes, and generates  
4 income for local governments and the  
5 provincial government, again to be used  
6 for the public good. Accordingly, we do  
7 not want to lose revenue at BCLC  
8 unnecessarily. However, BCLC was prepared  
9 to lose revenue for the right reasons.  
10 For example, as further described below,  
11 AML initiatives targeting patrons (e.g.  
12 player interviews and cash conditions)  
13 were put in place despite the expectation  
14 that those initiatives would likely result  
15 in lost revenue."

16 Just, again, can you explain to us further what  
17 you mean BCLC didn't want to lose revenue  
18 unnecessarily?

19 A So BCLC -- BCLC had to create a balance, I  
20 suppose. And the balance is against generating  
21 revenue responsibly to fund social programs like  
22 education and health and all the rest of it.  
23 However, we had to balance that against that  
24 responsible side. Is it responsible to -- is it  
25 responsible to generate this -- or the means by



1                   which we generated that revenue. That was  
2                   always a balancing act. It was largely based on  
3                   risk tolerance, so as we move forward in this  
4                   journey certainly from 2013 forward, that  
5                   balance changed, but it was always done -- it  
6                   was always done with due regard that we did have  
7                   a revenue -- we did have a revenue mandate;  
8                   however, we never allowed the revenue mandate to  
9                   get in the way of doing the right thing. It's  
10                  just what is that right thing became the  
11                  question.

12                Q     Which comes back to your motivation was always  
13                  to act in the public good?

14                A     I believe so. And even now I spoke yesterday  
15                  and probably went on a bit too long with  
16                  Mr. Commissioner around, you know, we are on a  
17                  journey now, and there's some things that we can  
18                  do to make the facilities the safest in the  
19                  world, and a revenue impact may result from  
20                  that. Now, government is going to need to make  
21                  a decision on whether they're okay with that,  
22                  but I think we at BCLC and certainly in my role  
23                  as the chief operating officer, I feel strongly  
24                  that it's the right thing to do, even though it  
25                  may have an impact. Albeit a temporary impact

1                   on revenue. I'm confident with the products we  
2                   have and how we conduct our business that  
3                   revenue will be impacted not significantly, but  
4                   nevertheless if it's the right thing to do, we  
5                   should do it irrespective of impact, revenue  
6                   impact.

7           Q        You've been asked questions by the Province of  
8                   British Columbia with respect to GPEB and I  
9                   think you've said yesterday that the  
10                  relationship you believe is much better, much  
11                  more collegial and much more productive than it  
12                  was in the early years after you started?

13          A        Yes. But I also want to qualify that by saying  
14                  that the challenges we had with investigations,  
15                  GPEB investigations, were pretty unique. I  
16                  think we had some bumpy times with GPEB audit,  
17                  but I think an improvement or the relationship  
18                  between the two and a growing respect and  
19                  collegiality between audit and BCLC solved that  
20                  issue or amended that, whatever relationship  
21                  issues. In terms of registration and  
22                  Mr. McCrea's role as executive director for risk  
23                  was always good and I thought I had a good  
24                  relationship with GPEB general managers. So ...

25          Q        Let me take you to paragraph 82 where you

1 address under the heading "Engagement with  
2 GPEB."

3 A Yes.

4 Q You state at paragraph 82:

5 "BCLC had a harmonious relationship with  
6 GPEB's executive and most of the GPEB  
7 divisions."

8 That is there were four divisions of GPEB?

9 A I believe so.

10 Q "BCLC's disagreements with GPEB's  
11 investigations unit were with respect to  
12 the speed and means to reduce the use of  
13 currency in casinos, but even though BCLC  
14 had a revenue mandate and GPEB did  
15 not ..."

16 And I'll just interject. And by that you mean  
17 GPEB didn't have responsibility for the  
18 financial portion of gaming to raise revenue for  
19 the public good?

20 A That's correct.

21 Q They're the regulator?

22 A Yes.

23 Q Okay.

24 "... even though BCLC had a revenue  
25 mandate and GPEB did not, we had the same

1                   fundamental overall objective, preserving  
2                   the integrity of gaming in BC. I and  
3                   others at BCLC wanted to learn more about  
4                   the complexities of our cash-based  
5                   business and any potential nexus to  
6                   criminal activity before addressing any  
7                   issues in a surgical manner. GPEB's  
8                   investigations unit's approach was, in  
9                   my opinion, more blunt. They wanted to  
10                  stop the cash immediately without further  
11                  information or diligence. It is my  
12                  recollection that this approach differed  
13                  from the executive of GPEB's view on this  
14                  issue, which was more nuanced, and GPEB's  
15                  executives did not direct BCLC to refuse  
16                  suspicious cash."

17                  And I'll just stop there. You never received a  
18                  direction from the executives at GPEB to turn  
19                  away suspicious cash?

20                  A       Not that I can recall. Our first tangible --  
21                  first request by Mr. Mazure in I believe it was  
22                  August of 2015, which was a request to start --  
23                  start doing source of funds, which we already  
24                  were doing, and then a subsequent direction from  
25                  the minister in October, I think, was the first

1 written direction that we received.

2 Q Okay.

3 A At least I'm aware of.

4 Q Let me just carry on:

5 "In my view, GPEB's investigation unit's  
6 risk tolerance appeared to be at or near  
7 zero. We at BCLC thought it was key to  
8 understand the risk and devise strategies  
9 to eliminate or mitigate this risk, and  
10 while this was an area which demands  
11 continual improvement and adaptation, I  
12 believe we have successfully done so."

13 A Yes.

14 Q In your time in the role as Vice President,  
15 Mr. Desmarais, from beginning of 2013 to when  
16 Mr. Kroeker took over those responsibilities in  
17 September of 2015, what are some of the major  
18 initiatives that you brought to try to take this  
19 more surgical approach to these large cash  
20 transactions?

21 A Well, there were a number of them, and I may  
22 miss some, but I think the most -- the first --  
23 the big move forward was creating an AML unit.  
24 I think BCLC did a good job, maybe a great job  
25 of FINTRAC reporting, which was key, up until

1 I -- until I got there, and I was happy, I was  
2 generally very happy with how that was going,  
3 but I felt like we needed to do more. I knew  
4 that there was legislative changes on the  
5 horizon in February of 2014 around our  
6 responsibilities. FINTRAC could be argued with  
7 moving from a more -- was moving to a little bit  
8 more prescriptive approach on what we should do  
9 inside the -- for all of the reporting entities  
10 for that matter. Creating an anti-money  
11 laundering unit with dedicated individuals  
12 rather than leaving it as -- not ad hoc, but as  
13 something that is done in conjunction with a  
14 number of other things was the first -- first  
15 good -- first step.

16 I recognize that we really, really needed  
17 analytical support. Analysts were going to be  
18 key to conducting enhanced due diligence as well  
19 as the data analysis around this massive amount  
20 of information we were generating that would  
21 help us identify transaction anomalies as well  
22 as conducting due diligence on our players. I  
23 felt that the -- I felt that the investigators  
24 rather than just pointing them in a direction  
25 and giving them a very prescriptive list of this

1 is money laundering and this isn't, I felt that  
2 training was key. So we created -- so we  
3 offered something called ACAMS training, which  
4 is a third party training and designation, quite  
5 a difficult one. So investigators could make up  
6 their own minds and not be prescriptive on  
7 what -- obviously we had some benchmarks, but I  
8 wanted investigators to be able to take the  
9 initiative and to identify issues on the floor  
10 that maybe we hadn't previously identified. It  
11 was important that they be trained.

12 We attempted to put in place a transaction  
13 analysis tracking system that -- similar to what  
14 the banks used, I think four out of the five  
15 banks use the system. Unfortunately while some  
16 of that -- we're calling the SAS system, some of  
17 it worked from an analytical perspective which  
18 we tied into our business intelligence -- our  
19 business intelligence unit, other regrettably  
20 did not. But whenever you're innovative,  
21 sometimes things fail.

22 The information sharing agreement I take  
23 particular pride in. That had never been done  
24 before. And I think this commission has heard  
25 evidence that it's key for reporting entities

1                   like BCLC have a strong relationship with the  
2                   police. Within limits. Within guidelines, of  
3                   course.

4                   There were a number of other -- there were  
5                   a number of other initiatives that I undertook  
6                   during that time or drove. And it's not fair to  
7                   me to say this was all me. Like it wasn't I  
8                   woke up -- I wouldn't wake up one night and go  
9                   oh, we need an information-sharing agreement.  
10                  This was as a result of a lot of collaboration  
11                  and a lot of discussion amongst my team,  
12                  particularly my senior team who were incredibly  
13                  dedicated towards this and talked about how do  
14                  we make this better. It was always a sense of  
15                  continuous improvement. My folks really, really  
16                  cared about this issue.

17                  Q     Let me take you to paragraph 4 of your  
18                        affidavit. Under the heading "Evolution of  
19                        Money Laundering Methods and AML Practices."

20                  A     Yes.

21                  Q     Paragraph 4:

22                        "My experience at BCLC has been that our  
23                        knowledge and understanding of the ways in  
24                        which proceeds of crime may be filtered  
25                        into casinos by players, most of whom were



1                   unwitting, has evolved just as it has in  
2                   other sectors of society whether it be  
3                   financial institutions, professional  
4                   regulatory organizations, the real estate  
5                   industry, or governments generally. Over  
6                   the last eight years, as we at BCLC have  
7                   gained a better understanding of  
8                   techniques and methods that may be used to  
9                   get the potential proceeds of crime in the  
10                  casinos, we (in consultation with our  
11                  regulators) have adapted and proved our  
12                  AML processes."

13                 During your time with BCLC, do you believe BCLC  
14                 has been behind the casino industry in Canada,  
15                 in step with the casino industry in Canada or  
16                 ahead of the casino industry in Canada in AML  
17                 measures?

18                 A     It was not our mission to be out in front, but  
19                 because we wanted to do what's best for BC --  
20                 for BCLC and the province, but in doing so, I  
21                 believe we are ahead of the curve and in some  
22                 cases well ahead of the curve. I can point to  
23                 contacts even as recently as the last few weeks  
24                 on other jurisdictions within this country  
25                 reaching out to us to ask us questions on how we

1 approach different issues that are AML related,  
2 and at the end of our -- at the end of the  
3 last -- at least I'm aware of the end of at  
4 least two FINTRAC audits, one of which I was  
5 present for during the exit interviews, FINTRAC  
6 commented that we were well ahead of other  
7 reporting entities.

8 Mr. Karlovcec advised me that he has  
9 received calls from other jurisdictions in  
10 Canada that where upon completion of a FINTRAC  
11 audit, the FINTRAC auditors had suggested that  
12 they call BCLC if they needed help in managing  
13 their FINTRAC requirements. I think we're ahead  
14 of the curve. It doesn't mean that we're  
15 stopped. We've got to continue. But I believe  
16 that we've always been -- we're ahead of the  
17 curve.

18 Q Ms. Hughes took you to exhibit 30 to your  
19 affidavit, the letter to Mr. Smith from Minister  
20 de Jong.

21 A Yes.

22 Q In this letter the minister second paragraph  
23 says:

24 "Despite the introduction and promotion of  
25 noncash alternatives in gaming facilities

1 through earlier phases of the AML  
2 strategy, I am advised that large and  
3 suspicious cash transactions remain  
4 prevalent. The situation must be  
5 addressed."

6 And I think you said BCLC was already addressing  
7 that.

8 A Yes, but the language in this is unfortunate.  
9 I'm not sure who briefed him, but if he had been  
10 briefed appropriately, he would have been told  
11 that suspicious transactions were on a downward  
12 trend. Large cash transactions in fact had been  
13 on a downward trend since the beginning of 2015.

14 I think it's unfortunate that perhaps that  
15 wasn't pointed out to him, but in no way, in no  
16 way suggests that what he's directing us to do  
17 is incorrect. I'm not taking the point with  
18 that. But that particular -- but that  
19 particular statement suggests that nothing has  
20 changed, and a lot had changed.

21 Q Okay. The third point that's raised in that  
22 paragraph is:

23 "Enhance customer due diligence to  
24 mitigate the risk of money laundering in  
25 British Columbia gaming facilities through

1                   the implementation of AML compliance best  
2                   practices, including processes for  
3                   evaluating the source of wealth and the  
4                   source of funds prior to cash acceptance."

5                   Was that already being done?

6           A       Evaluating the source of wealth and source of  
7                   funds was well underway. Prior to cash  
8                   acceptance that would be challenging because we  
9                   are, of course, not in the cash cage. If -- in  
10                  most cases we had -- there were mitigating or  
11                  controls in place that would cause the service  
12                  provider to not take the cash. However, our  
13                  limit on cash often occurred -- our cash  
14                  conditionings limiting the amount of cash  
15                  someone could bring in often occurred after the  
16                  fact.

17          Q       This wasn't directed to you, Mr. Desmarais. You  
18                   were asked questions about it, but do you  
19                   interpret that or was the direction from  
20                   Mr. Lightbody that every large cash transaction,  
21                   the source of funds had to be determined?

22          A       Yes, it appeared to be moving in that direction.

23          Q       And that's what BCLC, the direction BCLC was  
24                   moving?

25          A       This was a -- I had peripheral -- I had



1           A     So Dr. German in my respectful opinion failed  
2                   to -- failed to adopt a qualitative and  
3                   quantitative analysis of BCLC and our efforts.  
4                   One is almost irrelevant without the other. And  
5                   on a personal note, this was a very challenging,  
6                   I guess, issue for me because -- and perhaps --  
7                   because I regarded Dr. German when I was in the  
8                   RCMP as a mentor, as a contributor to his first  
9                   two books or at least his first book on money  
10                  laundering, the process map on how asset  
11                  forfeiture would occur within the context of  
12                  12.2 of the *Criminal Code*. I'd lectured for him  
13                  on two or three occasions in his law class at  
14                  UBC. He was instrumental, I believe, in moving  
15                  me from federal policing IPOC into the  
16                  operations as operations officer in Burnaby. I  
17                  guess I felt at the time that it was odd while  
18                  all this was going on that he didn't reach out  
19                  to me personally, but I guess I thought that he  
20                  was -- I guess I thought that he was concerned  
21                  about a conflict.

22                         So when this -- when his reports came out,  
23                         it shocked me because I felt like we could have  
24                         cleared so much up if he just sat down and  
25                         either spoken with me at length or the -- or our

1                   BCLC -- our BCLC staff who had been working so  
2                   hard to try to achieve the ends that, quite  
3                   frankly, I was the architect of. Or at least  
4                   oversaw the architecture.

5                   So there were a lot of challenges that arose  
6                   out of that -- out of that particular piece of  
7                   work. And government's blind acceptance of the  
8                   recommendations at the end was also a blow.

9           Q        You disagreed with some of those  
10           recommendations?

11          A        We disagreed with a number of the  
12           recommendations. You will recall -- I can give  
13           you a few examples if you're interested or if  
14           we've got the time --

15          Q        I think I'm running out of -- I'll let somebody  
16           else do that because we're running out of time.  
17           But did you feel constrained in any way in  
18           publicly responding to Dr. German's reports and  
19           his criticisms of BCLC?

20          A        We were constrained in responding to the  
21           criticisms of Dr. German's report as well as  
22           some of the erroneous media stories that began  
23           to circulate about that time which caused just  
24           morale to plummet within the organization, and  
25           quite frankly I think with both Mr. Lightbody,

1                   myself and Mr. Kroeker, our standing with our  
2                   employees because they would see these obviously  
3                   false news reports, and occasionally --  
4                   occasionally erroneous reports or comments from  
5                   various members of government, and they were  
6                   looking to us to make it right. And I think we  
7                   all felt -- and we couldn't.

8                   Q     Thank you, Mr. Desmarais. Those are my  
9                   questions.

10                  THE COMMISSIONER: Thank you, Mr. Smart. I think  
11                   what we'll do now is take a 15-minute break.  
12                   And then we'll resume with Mr. Skwarok of Great  
13                   Canadian.

14                  THE REGISTRAR: This hearing is adjourned for a  
15                   15-minute recess until 11:34 a.m.

16                                   **(WITNESS STOOD DOWN)**

17                                   **(PROCEEDINGS ADJOURNED AT 11:19 A.M.)**

18                                   **(PROCEEDINGS RECONVENED AT 11:33 A.M.)**

19   **BRAD DESMARAIS, a**  
20   **witness for the**  
21   **commission, recalled.**

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

24                  THE COMMISSIONER: Yes, thank you, Madam Registrar.  
25                   I'll now call on Mr. Skwarok on behalf of



1                   Great Canadian Gaming Corporation, who has been  
2                   allocated 15 minutes.

3                   **EXAMINATION BY MR. SKWAROK:**

4                   Q     Sorry, I think I accidentally muted myself.

5                                 My name is Mark Skwarok, representing Great  
6                   Canadian. I'd like to, if I may, ask you some  
7                   questions about your relationship with Terrance  
8                   Doyle at Great Canadian.

9                   A     Yes.

10                  Q     First of all, how long have you known him?

11                  A     Well, since I -- he was probably one of the  
12                  first people I met from a service provider, so  
13                  that would have been 2013.

14                  Q     And have you known him to be a senior executive  
15                  with Great Canadian since that time?

16                  A     Yes.

17                  Q     Were you aware that he had significant  
18                  compliance responsibilities during that time?

19                  A     Yes.

20                  Q     To your knowledge did Mr. Doyle know about your  
21                  significant police experience with money  
22                  laundering and anti-money laundering policies?

23                  A     I believe the conversation on what I did in my  
24                  prior lives did come up, yes.

25                  Q     Did you have discussions with Mr. Doyle about

1 AML and large cash buy-ins?

2 A Yes. Many times.

3 Q Over what period of time?

4 A I would say starting in 2013, early 2014  
5 perhaps, right up to present day.

6 Q How frequently did you have discussions with him  
7 about AML concerns?

8 A OH, it's hard to quantify. Mr. Doyle would  
9 sometimes -- during the period that we've known  
10 each other would sometimes have monthly  
11 conversations, sometimes we'd have biweekly  
12 conversations and that of course didn't -- and  
13 there was always ad hoc conversations. Those  
14 ranged around not just AML but business  
15 operation issues and so on. It's hard for me to  
16 quantify it.

17 Q I appreciate that. Did he raise with you in  
18 these discussions concerns about potential  
19 criminal origin of large cash buy-ins?

20 A I'm not sure he framed it that way. I believe  
21 those became more prevalent -- we had some --  
22 actually, now that I'm thinking it through, we  
23 had conversations that took on a greater urgency  
24 around that during the period of time the German  
25 review was underway.

1 Q Did you seek to reassure him that money coming  
2 in was not necessarily proceeds of crime?

3 A I -- my conversations with him is that it may  
4 come from a variety of sources and that we  
5 had -- that I had a high -- my concerns -- and I  
6 know Mr. Kroeker also expressed those -- had  
7 significant concerns around the use of cash  
8 facilitators.

9 Q Did you tell or advise Mr. Doyle to take  
10 additional steps to deal with anti-money  
11 laundering?

12 A I believe -- I think I confirmed the steps or I  
13 agreed with the steps that Mr. Kroeker was  
14 taking on behalf of Great Canadian prior to his  
15 arrival at BCLC.

16 Q I think you testified that you believed at some  
17 stage that cash may have been provided by  
18 underground banks.

19 A Yes.

20 Q Is that right?

21 A Yes.

22 Q In your experience do all underground banks deal  
23 with proceeds of crime?

24 A Not all.

25 Q How do they work?

1           A     Well, in my -- there's a -- I mean, really when  
2                   we talk about underground banking what we're  
3                   really talking about within this context is  
4                   alternate banking methods. And it also should  
5                   not be confused with hawala. I know that I've  
6                   heard that mentioned in this commission once or  
7                   twice. Hawala is a different type of  
8                   underground banking and I don't believe we're  
9                   seeing that here.

10                   Underground banking can be used in a  
11                   criminal context. It can also be used in a  
12                   legitimate context within the sense that the  
13                   funds going in one end of the -- one end of the  
14                   process are legitimate. I mentioned in my  
15                   affidavit there was one circumstance back in the  
16                   late 90s, and this is I guess -- I was going to  
17                   say an investigative failure, but proving the  
18                   innocence of someone is not an investigative  
19                   failure. There was a circumstance where I was  
20                   absolutely certain I was seeing a -- I don't  
21                   want to burn up all your time, but there was,  
22                   you know, obviously money laundering has  
23                   placement integration -- or placement layering  
24                   integration. I was absolutely convinced that I  
25                   was seeing layering going on of a significant

1 amount of money, and I want to say millions, to  
2 the point where once we gathered enough evidence  
3 I was able to get a search warrant and search  
4 this premises, and it turned out that my theory  
5 was wrong. In that particular case what was  
6 happening is this company was collecting cash  
7 from individuals in the community, all of whom  
8 were legitimate. We did -- you know, like,  
9 basically I guess what you call a representative  
10 sampling of those individuals and did some  
11 background on them. We were satisfied that they  
12 were not drug traffickers or generating proceeds  
13 of crime. However they chose to use an  
14 alternate banking method through the use of  
15 business that had branches around the world,  
16 predominantly in Vietnam. And what would happen  
17 is people would bring in large amounts of cash,  
18 or would bring in cash, often small amounts  
19 would add it up to a large amount. The  
20 underground bank -- the facility had an  
21 arrangement with the bank where they were able  
22 to deposit that and they did a wire transfer. I  
23 mean, it was simplest -- in its simplest, sort  
24 of simplest rendition, that would an alternate  
25 banking method.

1 Q Thank you, sir.

2 A Does that answer your question?

3 Q Yes, it does. In your discussions with  
4 Mr. Doyle, were there any comments made about  
5 the desirability of getting the police to have a  
6 bigger presence in money laundering  
7 investigations?

8 A Yes. That was a feature of some of our  
9 conversations. Mr. Kroeker was also very  
10 supportive of that, and that led to the CFSEU  
11 briefing at River Rock in June of 2014.

12 Q All right. And to your knowledge Mr. Doyle was  
13 supportive of that increased police involvement?

14 A Yes. Mr. Doyle never expressed any concern  
15 about involving the police to a greater degree.

16 Q Did you develop an opinion on Mr. Doyle's  
17 attitude towards compliance generally and AML  
18 specifically?

19 A Yes. I think Mr. Doyle -- Mr. Doyle's and my  
20 conversations around AML were probably less  
21 frequent when Mr. Kroeker was in place. They  
22 became more frequent after Mr. Kroeker left and  
23 came to BCLC. And that was just during the  
24 ordinary normal course of conversations around  
25 business operations and so on.

1                   Mr. Doyle never pushed back on any of the  
2                   initiatives that we proposed. The only  
3                   disagreement or the only challenges we had was  
4                   on how patrons would be interacted with.

5           Q       He never suggested that BCLC ought to never  
6                   speak with patrons, did he?

7           A       Certainly not to me.

8           Q       All right. Did you perceive that Mr. Doyle put  
9                   revenue ahead of compliance?

10          A       No.

11          Q       All right. And I've asked you a number of  
12                   questions about Mr. Doyle. If you can just  
13                   generalize on my questions, do your answers  
14                   apply equally to Mr. Kroeker?

15          A       Yes. In fact Mr. Kroeker is probably --  
16                   Mr. Kroeker was hypervigilant about issues  
17                   within the -- money laundering issues within --  
18                   and other compliance issues, not just limited to  
19                   AML at Great Canadian.

20          Q       If I could take you, please, to paragraph 55 of  
21                   your affidavit.

22          A       Yes.

23          Q       The first sentence reads:

24                   "Once the cash conditions program and  
25                   other controls were implemented, the value

1                                   of large cash transactions fell  
2                                   dramatically starting the end of 2014."

3                   Do you see that?

4           A     Yes.

5           Q     Mr. Kroeker testified that it was difficult to  
6                   assess the impact of the source of fund  
7                   conditions on cash buy-ins because there were  
8                   other events happening at the same time that  
9                   could have caused the reduction in large cash  
10                  buy-ins. These included such things as a  
11                  worldwide decrease in Chinese table play and the  
12                  tightening of Chinese currency controls. Do you  
13                  agree with that?

14          A     Yes, I would agree that those would be, I think,  
15                  relatively at that time had minor impacts. I  
16                  believe that the major impacts was the cash  
17                  control, cash conditions.

18          Q     And why do you say that?

19          A     Because we were interacting with the players at  
20                  that time, and having conversations with the  
21                  players at that time about not bringing in cash,  
22                  and they had -- and that had been their primary  
23                  form of behaviour for a decade or more. And we  
24                  lost some players during that period of time.  
25                  River Rock to a great degree but other service



1 providers as well. But you are absolutely  
2 correct in that there was a shift in Macao,  
3 Singapore and I want to say Kuala Lumpur, that  
4 high-limit play had somewhat decreased.

5 We were fortunate in this particular case,  
6 though, because we had been making adjustments  
7 to our main floor gaming content, and the main  
8 floor gaming content, even though being played  
9 at a much lower level, was starting to increase.

10 Q I'm going to just ask you a couple more  
11 questions if I may. I believe you testified  
12 that a reason for GPEB's investigators' belief  
13 that the source of funds was proceeds of crime,  
14 it was attributable to their previous police  
15 experience and, a term you used, "confirmation  
16 bias." Was that your evidence?

17 A Yes.

18 Q And what is confirmation bias?

19 A I guess another way to describe it would be  
20 tunnel vision. There is you have a narrative  
21 and you seek answers to support the narrative  
22 instead of looking at all of the factors  
23 combined to see whether that is in fact the  
24 truth.

25 I used to give lectures on avoiding

1                    wrongful convictions when I was a police  
2                    officer, which is always a desirable thing to  
3                    do, of course, and one of the most common  
4                    failings in police informations where they end  
5                    up accusing the wrong person is because of that,  
6                    is tunnel vision. And I had a little bit of a  
7                    concern that that was going on here because they  
8                    were so focused on drugs. And, you know,  
9                    honestly it felt like they were almost  
10                    intolerant to any other explanation or  
11                    combination of explanations.

12                    Q    Referring in layman's language to a situation  
13                    where an investigator can come to an initial  
14                    conclusion about what happened, and then there's  
15                    a tendency to interpret subsequently learned  
16                    evidence to jibe with the initial conclusion.  
17                    Is that a fair comment?

18                    A    I would say that's a great way to explain it.

19                    Q    And further, if there is evidence uncovered  
20                    which is inconsistent with that initial  
21                    conclusion, there's a tendency to ignore it?

22                    A    Or discredit it, yes.

23                    Q    And in your view were these concepts applicable  
24                    to what was happening with GPEB?

25                    A    To -- yes, to some degree. I was perplexed at

1                   their -- I was perplexed why they just didn't  
2                   want to even consider other opportunity -- other  
3                   explanations, but ...

4           Q       And I'm not talking necessarily about a  
5                   dishonesty. We're talking about an unconscious  
6                   bias; right?

7           A       That's exactly what we're talking about.

8           MR. SKWAROK: Those are my questions, sir. Thank  
9                   you.

10          THE COMMISSIONER: Thank you, Mr. Skwarok.

11                   I'll now call on Mr. Gruber for Gateway  
12                   Casinos & Entertainment Ltd., who has been  
13                   allocated five minutes.

14          MR. GRUBER: Thank you, Mr. Commissioner. Based on  
15                   the evidence given I have no questions for this  
16                   witness.

17          THE COMMISSIONER: Thank you, Mr. Gruber.

18                   And now Mr. McFee on behalf of James  
19                   Lightbody, who has been allocated 30 minutes.

20          **EXAMINATION BY MR. McFEE:**

21          Q       Mr. Desmarais, in answer to questions you gave  
22                   some evidence and indicated you've had 33 years  
23                   in law enforcement before you joined BCLC?

24          A       Yes. I think it's closer to 34, but ...

25          Q       And that you've indicated to the commission you

1                   were involved in a number of proceeds of crime  
2                   and major money laundering investigations?

3           A     That's correct.

4           Q     And to sum up one aspect of your evidence, is it  
5                   fair to say you as a result of those many years  
6                   of experience came to the considered view that  
7                   cash alone isn't determinative of criminal  
8                   activity?

9           A     Yes.

10          Q     And I take it from your evidence you had that  
11                considered viewpoint when you joined BCLC in  
12                February of 2013?

13          A     Yes.

14          Q     And has the information and experience that  
15                you've acquired over your eight years with BCLC  
16                caused you to change that view in any way?

17          A     No.

18          Q     And I take it from your evidence that it  
19                continues to be your considered view that the  
20                utilization of cash by casino patrons is one  
21                factor variable that must be taken into account  
22                in evaluating whether the funds arise from  
23                illicit means?

24          A     One factor, yes.

25          Q     But I take it it's only one of several factors?

1 A Yes.

2 Q And is that the very core of the risk-based  
3 approach that you have to take into account a  
4 number of factors in evaluating the risk?

5 A I would agree.

6 Q And in the context of this risk-based  
7 multifactor approach, when you joined BCLC and  
8 oriented yourself, you told the commission about  
9 how you spent some time finding the lay of the  
10 land?

11 A Yes.

12 Q Did you -- you then there after you oriented  
13 yourself you directed BCLC enhance its customer  
14 due diligence?

15 A Yes.

16 Q And in your affidavit and your evidence  
17 particularly in your response to Mr. Smart's  
18 questions you described a number of measures  
19 that BCLC enacted during your tenure to enhance  
20 the AML program?

21 A Yes.

22 Q But just casting back a bit, even before you  
23 joined BCLC in your orientation, did you learn  
24 that one of the measures that was already in  
25 process was the implementation of the cash

1 alternatives in BC casinos?

2 A I did.

3 Q And as part of your orientation and learning the  
4 lay of the land when you joined BCLC, did you  
5 learn that BCLC together with the regulator had  
6 developed a strategy for preventing money  
7 laundering or at least mitigating the risk in BC  
8 casinos?

9 A Yes.

10 Q And so did you understand that GPEB and BCLC had  
11 arrived at a phased approach to implementing  
12 this money laundering strategy?

13 A I had.

14 Q And in that context, if I could ask you to refer  
15 briefly to exhibit 62 to your affidavit.

16 And, Madam Registrar, if that could be  
17 brought up, exhibit 62 of Mr. Desmarais's  
18 affidavit.

19 And if you -- yes, Madam Registrar has page  
20 380 in the top right-hand corner, which is the  
21 covering email. Do you have that?

22 A Yes.

23 Q And that's an email from Mr. McCrea at GPEB sent  
24 to a number of individuals, including you and  
25 the subject is "GPEB anti-money laundering

1 performance progress report."

2 A Yes.

3 Q And this is on May 10th of 2013, so a bit of a  
4 period of time after you joined BCLC; correct?

5 A Yes.

6 Q Now, we see that there's a number of GPEB  
7 personnel that this is addressed to and a number  
8 of BCLC personnel that it's addressed to. Was  
9 this a joint working group that was -- that were  
10 the addressees of this email, or ...

11 A No.

12 Q Do you know why you were getting copied with  
13 this?

14 A Because I was the guy in charge of compliance.

15 Q And you'll see that it seems like the GPEB  
16 personnel are in large part, if not entirely,  
17 their executives?

18 A Yes.

19 Q And Mr. McCrea is the individual that you  
20 indicated as you understood it was taking the  
21 lead at GPEB in the development of their  
22 anti-money laundering strategy?

23 A Yes.

24 Q And if I could take you, please, over to  
25 page 384 of that exhibit in the top right-hand

1 corner?

2 A Yes.

3 Q You should have the executive summary. Do you  
4 have that?

5 A Yes.

6 Q Do you see at -- in the first paragraph at the  
7 bottom it's bolded. It's got:

8 "The gaming industry will prevent money  
9 laundering in gaming by moving from a  
10 cash-based industry as quickly as possible  
11 and scrutinizing the remaining cash for  
12 appropriate action."

13 Have I read that correctly?

14 A You have. And there's also:

15 "This shift will respect or enhance our  
16 responsible gambling practices and the  
17 health of the industry."

18 Q Right. And do did you understand that the focus  
19 at this time of both GPEB and BCLC was to move  
20 from a cash-based industry as quickly as  
21 possible?

22 A Yes.

23 Q And I also want to go to the next paragraph. It  
24 says:

25 "The approach to achieving the AML goal is



1                   for the industry to develop and implement  
2                   tiers of scrutiny and control over the  
3                   acceptance of funds into gaming  
4                   facilities. The plan is designed to  
5                   progress through three phases with defined  
6                   time frames."

7                   So did you understand that this plan was to be  
8                   implemented in three phases?

9                   A     Yes, I did.

10                  Q     And just in the contest of those three phases,  
11                   if I could now ask you to go to page 396 of that  
12                   exhibit, please. You'll see in the middle of  
13                   the page -- do you have that, Mr. Desmarais?

14                  A     Sorry I'm a little slow. Yes, I have it now.

15                  Q     The middle of the page you see the title "AML in  
16                   BC Planning – the Phased Plan"?

17                  A     Yes.

18                  Q     It says:

19                             "At the outset, in setting a strategy for  
20                             preventing money laundering in BC casinos,  
21                             it was decided that an incremental  
22                             approach would be established."

23                   And if you go down into the box, you'll see the  
24                   phases, and phase 1 is cash alternatives,  
25                   service provider intervention"?

1 A Yes.

2 Q And it says:

3 "GPEB, BCLC and the industry have provided  
4 alternative means to carrying in cash from  
5 outside gaming facilities. By adopting  
6 these alternatives patrons are able to  
7 access gaming funds directly in the  
8 facilities, and with appropriate AML  
9 diligence."

10 So did you understand that -- and the time frame  
11 is April 1st, 2012 -- did you understand that  
12 the cash alternatives had been implemented at  
13 that time?

14 A They were -- the first phase, I guess, yeah. I  
15 saw cash alternatives as something that was --  
16 should be continuously improved.

17 Q And that's what I was going to ask you about.  
18 This talks about phase 1. When you were in  
19 charge of compliance at BCLC, did you continue  
20 to seek to introduce further cash alternatives?

21 A We did, yes.

22 Q And do you recall in 2015 BCLC sought to induce  
23 further cash alternatives in terms of enhanced  
24 convenience cheques and international electronic  
25 fund transfers and credit in favour of patron

1 gaming fund -- patrons by way of overdraft?

2 A Yes.

3 Q And was that initiated under your watch?

4 A The early part of it, the early part of the  
5 planning was, yes.

6 Q You recall that BCLC sought GPEB's approval for  
7 those cash alternatives in the spring of 2015?

8 A Yes.

9 Q And although I appreciate that oversight of the  
10 AML programs fell to Mr. Kroeker after September  
11 of 2015, do you recall being advised that in the  
12 summer of 2016 BCLC was told that GPEB's  
13 approval wasn't required to implement enhanced  
14 convenience cheques and international electronic  
15 fund transfers?

16 A Yes, I did.

17 Q And did that delay in getting a response from  
18 GPEB, was it of concern to you and other people  
19 at BCLC?

20 A It was a concern to us. There had been a number  
21 of these types of proposals over the years, not  
22 just this one, which either resulted in a no or  
23 a significant delay in examining the -- in  
24 examining the voracity of the proposals.

25 My recollection of that particular -- that

1 particular proposal arose as a result of a  
2 Sauder School of Business project, and that  
3 formed the basis, if my memory is correct, for  
4 that particular enhancement.

5 MR. McFEE: Madam Registrar, we're done with that  
6 exhibit, so it can be taken down. Thank you.

7 Q Now, Mr. Desmarais, another AML enhancement that  
8 was implemented by BCLC while you were the chief  
9 of compliance that you're described was having  
10 BCLC investigators conduct interviews of  
11 high-risk patrons and impose sanctions against  
12 certain patrons where appropriate?

13 A Yes. Although I prefer to call them conditions,  
14 but yes.

15 Q And as you told the commission, that commenced  
16 at your direction in the fall of 2014?

17 A Yes.

18 Q And you also told the commission and it's in  
19 your affidavit that that was formalized in a  
20 written protocol dated April 16, 2015?

21 A Yes.

22 Q And who was that protocol distributed to?

23 A My recollection is it was distributed throughout  
24 corporate security but also the service  
25 providers because the service providers were

1 parties -- and GPEB were parties to the  
2 formulation.

3 Q If I could refer you to a moment to paragraph 48  
4 of your affidavit. And this describes that BCLC  
5 asking high-risk patrons about their source of  
6 funds by 2014, so that was part of that program  
7 you've just described?

8 A Yes.

9 Q And you say:

10 "GPEB subsequently also requested BCLC to  
11 focus on source of funds."

12 And in the last you refer to the letter from  
13 Mr. Mazure, the General Manager of GPEB to  
14 Mr. Lightbody, dated August 7th, 2015, and you  
15 say:

16 "To the best of my recollection, this is  
17 the first time that General Manager of  
18 GPEB had written BCLC requesting that BCLC  
19 take source of funds measures. As noted  
20 above, BCLC had already starting doing  
21 this."

22 So BCLC had already been doing this starting in  
23 the fall of 2014?

24 A Yes.

25 Q So did it surprise you that the General Manager

1                   of GPEB would seem to be asking BCLC to initiate  
2                   something that it was already doing?

3           A       No. It didn't surprise me. I think -- I  
4                   think -- I can't speak for what was in the mind  
5                   of course of the General Manager of GPEB. We  
6                   did have an AML summit in the early part of  
7                   June, I believe, of that year of 2015, where we  
8                   talked about -- where we talked about various  
9                   AML controls. We did talk about source of  
10                  funds. So that may have prompted him to write a  
11                  letter. But I can't say I was surprised to  
12                  receive it. I guess -- I think my evidence  
13                  earlier was that it served as confirmation, I  
14                  think, that we're on the right track.

15          Q       And in terms of being on the right track after  
16                  receipt of Mr. Mazure's August 7th, 2015 letter,  
17                  did BCLC implement additional measures to focus  
18                  on and identify the source of wealth and source  
19                  of funds of patrons?

20          A       I would say that this was not the catalyst, but  
21                  we continued to do it in the ordinary and normal  
22                  course of continuous improvement.

23          Q       And a number of patrons were put on cash  
24                  conditions and some banned thereafter in the  
25                  fall of 2015 as part of this program you'd

1 implemented?

2 A Yes. I should point out as well that the very  
3 earliest time where we were banning players was  
4 around misuse of chips in early 2014 where we  
5 had some discussion around use of funds and  
6 source of funds, so in fact it could be argued  
7 we went back even earlier than the fall of 2014,  
8 but the answer to your question is yes.

9 Q And I take it from your evidence that the  
10 implementation of these enhanced measures in  
11 terms of ascertaining patrons' source of wealth  
12 and source of funds did result in some response  
13 from certain of the service providers?

14 A Yes.

15 Q And in that regard -- and you've been referred  
16 to it earlier, but I'd like to take you to it  
17 for a moment -- if you could look at exhibit 26  
18 of your affidavit, please.

19 If that could be brought up, Madam Registrar.

20 You should have an email exchange that you  
21 had with Michael Graydon, who was then with Parq  
22 Vancouver, of September 11 --

23 A Yes.

24 Q -- 2015?

25 A Yes.





1                   is advocating."

2                   Stopping there. You understood Mr. Graydon to  
3                   be saying, I take it by the context of your  
4                   answer that if you're going to put these source  
5                   of wealth, source of funds restrictions in  
6                   place, you have to have cash alternatives  
7                   available to the patron?

8           A       Yes.

9           Q       And when you're referring to BCLC's seeking  
10           approval at least in principle of several cash  
11           alternative strategies, are these the very  
12           strategies we referred to earlier in my  
13           questions that were initiated in the spring of  
14           2015?

15          A       Yes.

16          Q       And as we've seen, the definitive response from  
17           the regulator GPEB didn't come until the summer  
18           of 2016?

19          A       That's correct. There was some intervening, as  
20           I mentioned, there was some intervening  
21           communications. I believe at one point GPEB  
22           came back and asked us to submit full business  
23           cases for some of these alternatives beyond the  
24           original proposals. I'd have to confirm the  
25           dates on that. But generally speaking there was

1 no substantive movement until 2016.

2 Q Thank you. We can take that exhibit down,  
3 please.

4 Now, I want to -- in the same time frame I  
5 want to address this letter that's found at  
6 exhibit 30 to your affidavit, please.

7 Madam Registrar, if that could be brought  
8 up. This is the letter from the minister  
9 Michael de Jong to the chair of BCLC of  
10 October 1st, 2015. Do you have that?

11 A Yes.

12 Q Just to be clear, at this point in time were  
13 you -- had you been -- I shouldn't say replaced  
14 but had Mr. Kroeker come in and taken over the  
15 portfolio for compliance at BCLC?

16 A Yes, he had.

17 Q So in terms of the anti-money laundering  
18 strategy, was that now in Mr. Kroeker's  
19 bailiwick?

20 A It was. Although I did have a consultative  
21 role, I guess.

22 Q Right. And Ms. Hughes on behalf of the province  
23 questioned you about your interpretation of this  
24 October 1st, 2015 letter, but I -- am I correct  
25 that the actual implementation of the steps in

1                   this letter would have fallen then to Mr. Kroeker?

2           A       Yes.

3           Q       And you were taken to point 3 of this letter in  
4                   the first page. Do you have that?

5           A       Yes.

6           Q       And the direction is:

7                   "Enhance customer due diligence to  
8                   mitigate the risk of money laundering in  
9                   British Columbia gaming facilities through  
10                  the implementation of AML compliance best  
11                  practices."

12           Let's stop there for a moment. AML compliance  
13           best practices were -- was the guidance that  
14           BCLC was receiving in this time frame, October  
15           2015, from FINTRAC and FATF to follow a  
16           risk-based approach?

17          A       Yes, it was.

18          Q       And the direction goes on:

19                  "Including processes for evaluating the  
20                  source of wealth and source of funds prior  
21                  to cash acceptance."

22          A       Yes.

23          Q       Now, Ms. Hughes asked you for your  
24                  interpretation of that letter, but are you aware  
25                  whether Mr. Lightbody had subsequent

1                   conversations with representatives of  
2                   government, including the Associate Deputy  
3                   Minister Ms. Wenezenki-Yolland to clarify the  
4                   intended scope of these processes?

5           A        I'm not aware of that.

6           Q        Are you aware if the chair, Mr. Smith, and  
7                   Mr. Lightbody arranged to meet with the minister  
8                   in November 2015 to discuss this very letter and  
9                   the scope of the letter?

10          A        I'm sorry, I don't recall that.

11          Q        And I take it to the best of your recollection  
12                   you weren't in attendance at any meeting with  
13                   the Associate Deputy Minister or the minister  
14                   after receipt of this letter to clarify the  
15                   scope of the direction?

16          A        I don't believe I was present.

17          Q        That exhibit could be taken down. Thank you.

18                   I just want to focus on a different topic  
19                   for a moment, and this is the communication with  
20                   law enforcement. As the Commissioner has heard,  
21                   Canada's AML regimes require reporting entities  
22                   to send reports to FINTRAC, including these STRs?

23          A        Yes.

24          Q        Now, as I understood your evidence and answer to  
25                   the questions yesterday from commission counsel,

1                   did BCLC go beyond the mandated reporting  
2                   requirements?

3           A     I believe we did.

4           Q     And how did BCLC do that?

5           A     I think we conducted a greater degree of  
6                   analysis that would normally be called for in  
7                   circumstances like this. We also compiled  
8                   intelligence packages, I suppose you might call  
9                   them, to further aid FINTRAC and the police in  
10                  helping us identify whether the proceeds of  
11                  crime were in fact being utilized by -- well,  
12                  for example the cash facilitators. There were  
13                  other -- I believe there were other measures  
14                  taken. Did I answer your question adequately?

15          Q     Yes, although as I had understood your evidence,  
16                  you also -- BCLC under your watch made  
17                  arrangements to copy the RCMP on every STR. Did  
18                  I understand that correctly?

19          A     Oh, yes, that's correct. Yes, we did.

20          Q     And that was outside of the mandated reporting  
21                  requirements?

22          A     Yes. FINTRAC talked about -- FINTRAC -- we'd  
23                  received guidance that FINTRAC would not object  
24                  to us copying the RCMP, so we -- and so that  
25                  practice started before I arrived.

1           Q     And I take it from your extensive police  
2                    experience as a police officer would you have  
3                    found that beneficial to have these reports come  
4                    directly as opposed to with the time lag from  
5                    FINTRAC?

6           A     I think there's value in both routes, quite  
7                    frankly. As long as the police were properly  
8                    categorizing them so they could be of course  
9                    retrieved, because you know, retrievability is  
10                   no good if you just have simple possession. But  
11                   in addition to that, FINTRAC performs a  
12                   different function, and so it would be important  
13                   that both, I think, have access to that  
14                   information. Of course FINTRAC is mandated by  
15                   statute.

16          Q     And with the provision of this information to  
17                    law enforcement, I understood from your  
18                    affidavit and your evidence that -- or let me  
19                    just ask you: did you observe any indicia of  
20                    law enforcement acting on any of this  
21                    information in 2014?

22          A     No.

23          Q     And is that what led to you having this  
24                    discussion with Inspector Chrustie of FSOC in  
25                    February of 2015 that you told the commission

1 about at the coffee shop in North Vancouver?

2 A No. It was earlier than that. In late 2013,  
3 early 2014, as cash facilitators began to be  
4 more prominent and I started to become a little  
5 more concerned about them, we -- my staff began  
6 reaching out to the RCMP, I believe in April of  
7 2014, and then subsequently did a presentation  
8 and a tour of River Rock in June of 2015 with  
9 CFSEU.

10 Q But was it the, at least as you observed it,  
11 lack of response or action from RCMP that led to  
12 you raising these matters with Inspector  
13 Chrustie in February of 2015?

14 A Yes.

15 Q As I understood your evidence Inspector Chrustie  
16 agreed to put his people in touch with your  
17 people, which --

18 A That's correct.

19 Q -- did you interpret that as they would look  
20 at --

21 A Yes.

22 Q -- the issues?

23 A Yes.

24 Q And was this the first indicia to you that BCLC  
25 was finally succeeding in obtaining law

1 enforcement's attention respecting these large  
2 sums of cash coming into casinos and the  
3 concerns about cash facilitators?

4 A Yes. I also saw it as confirmation that our  
5 information-sharing agreement was acting as it  
6 should.

7 Q Now, in answer to Mr. Smart's questions in terms  
8 of the enhancements that you implemented, one of  
9 the things you mentioned was training.

10 A Yes.

11 Q And you ensured that all members of BCLC's AML  
12 team received the certified ACAMS training?

13 A Yes. We made it a condition of employment.

14 Q And was that -- who did that apply to? Was it  
15 members of the AML team and investigators, or  
16 who did it actually apply to?

17 A Initially my recollection is that it applied to  
18 the AML team as well as investigators.  
19 Certainly the investigators in the large casinos  
20 in the Lower Mainland.

21 Q And contemporaneously at the time did you have a  
22 view as to whether it would be beneficial for  
23 GPEB personnel to obtain equivalent or similar  
24 AML training?

25 A Yes. We offered positions for the -- for GPEB



1 to also take training.

2 Q When you say you offered positions, can you  
3 flesh that out a little bit. What did that  
4 comprise of?

5 A My recollection is that we had funds set aside  
6 for GPEB to take -- to take ACAMS training. We  
7 invited GPEB into our -- into our ACAMS -- as  
8 ACAMS membership, so they would have access to  
9 the data, but my recollection is that we also  
10 offered them the opportunity for training.

11 Q And what's your best recollection as to when  
12 that offer was extended?

13 A Early 2014, I believe.

14 Q And do you recall if there was any uptake on  
15 that offer?

16 A No, I don't believe there was any uptake on that  
17 offer, but full transparency, I know that GPEB  
18 ultimately moved to another AML certification  
19 sometime later and began training their people.

20 Q And is it your recollection that that was some  
21 years later under Mr. Skrine's leadership at  
22 GPEB?

23 A I'm sorry. I don't have a time frame.

24 Q Were you ever provided with any explanation for  
25 the lack of uptake by GPEB personnel on this

1 offer to obtain AML training?

2 A No. But the offer would have been made through  
3 the manager and then director of AML, and they  
4 would have received the explanation. If there  
5 was one, I just don't recall.

6 Q And under Mr. Lightbody's leadership, can you  
7 tell the commission what emphasis was placed  
8 within BCLC on AML measures and mitigating the  
9 risks of proceeds of crime entering BC casinos?

10 A Well, the emphasis was always high. I guess I  
11 can give you an illustrative example. There was  
12 a period of time where BCLC was going through  
13 significant cost constraints, but whenever I  
14 went to Mr. Lightbody with a funding request for  
15 some AML compliance issue or compliance  
16 mitigation, there was never any question about  
17 his saying yes. And our CFO of the day also was  
18 very supportive.

19 MR. McFEE: Those are my questions. Thank you.

20 THE COMMISSIONER: Thank you, Mr. McFee.

21 I'll call now on Ms. Mainville on behalf of  
22 Mr. Kroeker, who has been allocated 20 minutes.

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

24 **EXAMINATION BY MS. MAINVILLE:**

25 Q Mr. Desmarais, you spoke a little bit about

1                   your -- some contact with Mr. Kroeker when he  
2                   was at GCGC and you were at BCLC; correct?

3           A     Yes.

4           Q     And you started working at BCLC in February  
5                   2013, which was shortly after Mr. Kroeker took  
6                   up his position as VP compliance at GCGC. Do  
7                   you recall that?

8           A     Yes.

9           Q     And just to be clear, how often would you  
10                  estimate you were in contact with Mr. Kroeker  
11                  when you were both in those respective roles?

12          A     I would say weekly, sometimes more frequently.

13          Q     And you characterized Mr. Kroeker earlier as  
14                  hypervigilant, I take it in his role as VP  
15                  compliance and his discharge of his duties at  
16                  GCGC?

17          A     That was my observation.

18          Q     What would you say about what you perceived in  
19                  terms of his level of integrity?

20          A     Well, full transparency, I've known  
21                  Mr. Kroeker -- I knew Mr. Kroeker for at least a  
22                  decade prior to this, maybe even a little longer  
23                  when he was the Director of Civil Forfeiture and  
24                  I was in proceeds of crime. And I should also  
25                  say that I consider Mr. Kroeker a friend. So I

1 think that's important for the Commissioner to  
2 understand.

3 But what I can also say is that Mr. Kroecker  
4 in my respectful opinion has some of the highest  
5 levels of integrity of anyone I know. And he is  
6 completely focused on doing the right thing,  
7 even to the detriment of his own personal -- it  
8 may personally not further his interests. Doing  
9 the right thing is the most important thing for  
10 him.

11 Q Thank you. And when he was at GCGC did you keep  
12 him apprised of BCLC's efforts in respect of  
13 engaging law enforcement?

14 A Yes. Where it was appropriate.

15 Q Right. And were you aware of him making his own  
16 efforts in respect of engaging law enforcement  
17 at the time?

18 A Yes.

19 Q And is it fair to say that prior to 2015, prior  
20 to your conversation with Cal Chrustie, that  
21 there was a belief on your part or on BCLC's  
22 part that the police were investigating -- that  
23 at some period of time before 2015 you believed  
24 that the police had been investigating?

25 A Yes.

1 Q Was that in 2014?

2 A Yes, for a period of time in 2014, certainly  
3 after the -- certainly after the meeting with  
4 CFSEU at River Rock in June of 2014 and then the  
5 subsequent requests for information that flowed  
6 back and forth as I understand it between our  
7 two teams, we felt optimistic that some form of  
8 investigation was underway. That optimism faded  
9 over a period of time.

10 Q And to the best of your understanding was that  
11 the perspective that Mr. Kroeker had at the time  
12 or his understanding of the situation?

13 A Yes. I think Mr. Kroeker was becoming quite  
14 impatient.

15 Q Were you involved subsequently in the decision  
16 to bring Mr. Kroeker over from GCGC to BCLC?

17 A I certainly recommended that he be considered as  
18 a candidate. I had always disclosed that he was  
19 my friend when he was the chief compliance  
20 officer of GCGC. I also advised on what we call  
21 our declaration of ethical conduct. I disclosed  
22 that he was my friend as well. So I made sure  
23 that I disclosed that to Mr. Lightbody, that he  
24 and I had a personal relationship. But  
25 nevertheless, Mr. Lightbody proceeded with his

1 appointment.

2 Q Was it your understanding that Mr. Kroeker was  
3 approached to take on the position?

4 A That's a good question. I recommended -- I  
5 recommended him to Mr. Lightbody. My  
6 recollection is that Mr. Lightbody reached out  
7 to him, but I can't be certain.

8 Q Okay. And are you aware of whether Mr. Kroeker  
9 moving to BCLC would have entailed a pay cut for  
10 him?

11 A My recollection is that there was a pay cut. It  
12 was a material pay cut, but I can't put a value  
13 on that.

14 Q But he accepted the position regardless?

15 A Yes.

16 Q You've described both in your affidavit and in  
17 your evidence today some of the cash alternative  
18 proposals that BCLC put forward to GPEB for  
19 approval; correct?

20 A Yes.

21 Q And you mentioned I believe in response to a  
22 question from Mr. McFee that occasionally the  
23 answer from GPEB was no?

24 A Yes.

25 Q And if I could take you to one of those

1 instances, in September 2013 when BCLC requested  
2 a policy change to allow the issuance of  
3 convenience cheques?

4 A Yes.

5 Q And this request was denied; correct?

6 A Yes.

7 MS. MAINVILLE: And could we bring up, Madam  
8 Registrar, BCLC0065.

9 Do you recall this was a letter sent to  
10 yourself from then General Manager Doug Scott --

11 A Yes.

12 Q -- in response to this request? Yes?

13 A Yes.

14 Q If we could go to the second page, do you see  
15 there Mr. Scott indicates I believe on the  
16 second paragraph that the goal of the  
17 criminal -- sorry -- no, the first paragraph:

18 "If we accept the premise that a person  
19 wants to launder money in a casino, their  
20 goal must be to acquire a cheque."

21 Do you -- do you recall that statement?

22 A Yes.

23 Q Do you recall whether that was the concern from  
24 GPEB or at least the General Manager of GPEB,  
25 Mr. Scott, at the time that the risk was -- in

1                   2013 that the real risk was perceived as  
2                   cleaning money -- effectively a cash for cheque  
3                   scheme, traditional money laundering?

4           A        I think that was his concern.

5           Q        And why did BCLC believe that this was an  
6                   important step from an AML perspective?

7           A        Well, even early, so we're now talking August,  
8                   September of 2013, it became obvious to me that  
9                   a lot of the cash that was circulating in the  
10                  casino was in fact cash that we gave back. You  
11                  know, the -- it would be somebody walks in with  
12                  \$100,000, loses \$20,000, takes their \$80,000,  
13                  leaves, comes back with the next \$80,000, you  
14                  know, the next night with \$80,000, plays for  
15                  \$80,000, loses 20-, takes 60- out. On the face  
16                  of it -- you can see where I'm going with that.  
17                  On the face it looks like oh my god, they've  
18                  played 100 -- they bet 100,000 or \$240,000, when  
19                  in fact they've just played with \$100,000. It's  
20                  just churned.

21                         So it became obvious to me during that  
22                         brief period of time or the brief period that I  
23                         had been at BCLC that this was a major  
24                         contributor to the amount of cash flowing  
25                         through casinos, and that I felt one way to



1           interrupt that as well as creating a safer  
2           environment for our players, I felt this was a  
3           public safety issue, is by not giving them cash  
4           back, by giving them a cheque. Now,  
5           traditionally, I understand, and I understand  
6           Mr. Scott's reluctance because this did fly in  
7           the face of traditional thinking and while I  
8           understand his reluctance I don't necessarily  
9           agree with it, I believe that if someone walked  
10          in with a large amount of cash and was paid a  
11          cheque back, perhaps I was thinking too much  
12          like a police investigator at that time because  
13          that's golden. That is a golden opportunity for  
14          a police officer because the idea -- if it was  
15          in fact proceeds of crime because now you've got  
16          a traceable instrument. Now you've really  
17          killed -- you've done three things here really.  
18          You've protected the safety of the patron  
19          because they're walking out with a cheque made  
20          out to them with appropriate safeguards in  
21          place. So they're not likely to get mugged for  
22          that. Then they also in terms of traceability,  
23          when that cheque is cleared and brought back,  
24          we can -- and if it was a suspicious transaction  
25          the first instance, we can attach all of the

1 details on the back of that cheque to the  
2 supplemental FINTRAC report. Again, that's  
3 golden. Where it was cashed, who cashed it,  
4 when it was cashed, what branch bank, so on. It  
5 was just a gold mine of evidence. And most  
6 importantly, as we now know with I think an  
7 affidavit filed to this commission, that would  
8 have resulted almost immediately in about a 37  
9 or 38 percent drop in cash churn.

10 MS. MAINVILLE: And we can take this down. Thank  
11 you, Madam Registrar.

12 Q Were you aware of the Malysh report that was  
13 commissioned by GPEB in 2014?

14 A Yes.

15 Q Do you recall that Mr. Malysh back in 2014 to  
16 GPEB indicated that the best practice in the  
17 industry was effectively to use traceable  
18 instruments and cap cash payouts by casino?

19 A Yes. It felt like a bit of a vindication.

20 Q To your knowledge did GPEB revisit its decision  
21 on this issue at that time?

22 A Not to my knowledge.

23 Q In fact are you aware of whether convenience  
24 cheques are still capped in BC casinos today?

25 A I don't believe they are.

1 Q You do not believe they are capped?

2 A No. We've been -- I believe that that is --  
3 that how we view convenience cheques is -- was  
4 under active consideration and then COVID  
5 intervened.

6 Q Right. Are you aware of in 2018 GPEB delaying  
7 the implementation of this AML measure?

8 A Yes. They delayed the implementation I think of  
9 a few measures in that case.

10 Q Okay. What was your -- just changing the  
11 subject for a second. Can you tell me what your  
12 understanding was or has been of whether GPEB  
13 had the ability to act or whether it had  
14 sufficient authority to act in respect of the  
15 cash issue throughout your time, let's say, as  
16 VP compliance and legal?

17 A So from the moment I arrived at BCLC and became  
18 a registered GPEB, you know, as an employee of  
19 BCLC, I had a GPEB registration number. I knew  
20 that I was being -- that I had an accountability  
21 in order to maintain that registration. If they  
22 pulled that had registration, if I breached the  
23 conditions of that registration, they would  
24 remove my registration and my employment would  
25 effectively be terminated.

1                   In addition to that, I knew that the  
2                   minister could issue -- or that the General  
3                   Manager could issue directives that the -- that  
4                   had to be consented by the minister and a number  
5                   of other areas. So I felt GPEB did have a  
6                   stick. And as we were moving through this --  
7                   you know, the cash issues and the cash coming in  
8                   and the mitigating strategies and the -- in fact  
9                   the overall AML strategy that BCLC was invoking  
10                  whether it be under my watch or Mr. Kroeker's  
11                  watch, I always felt that we were kind of on the  
12                  right page because we didn't get any significant  
13                  or certainly no documented pushback from the  
14                  General Manager, and in addition to that if we  
15                  were truly placing the integrity of gaming at  
16                  risk then our registrations would be at risk.  
17                  But in so far as I'm aware, I was never  
18                  investigated for endangering the integrity of  
19                  gaming, which I understand is a -- which I  
20                  understand it was a key factor in maintaining  
21                  registration in good standing. So I guess the  
22                  short answer to your question is I felt that GPEB  
23                  did have -- in fact I was shocked when GPEB told  
24                  us, I want to say in 2018, we don't actually  
25                  regulate BCLC, because we always had assumed

1           that they did and we always acted like they did.  
2           And even when they told us that they didn't  
3           regulate us, we still treated them like our  
4           regulator. So it was a bit confusing.

5           Q     So is it fair to say that if you had received a  
6           directive from GPEB, GPEB's General Manager, you  
7           would have complied with that direction?

8           A     Immediately.

9           Q     You also had years of experience, I take it,  
10          dealing with GPEB investigations and GPEB  
11          compliance.

12          A     During my time at BCLC, yes.

13          Q     Yes. Did you ultimately have a view as to  
14          whether GPEB investigation was territorial about  
15          enforcement?

16          A     They seemed to be -- that's a good way to phrase  
17          it. They seemed to be territorial. May I  
18          elaborate on that?

19          Q     Sure, please.

20          A     The territorialism in my view seemed to stem  
21          from a lack of purpose, role clarification. You  
22          know, they told us they couldn't investigate  
23          money laundering. They told us that there's a  
24          number of things that they couldn't investigate.  
25          It seemed like -- it seemed to me like what they

1           were doing was just performing a records  
2           management function. They would take in -- they  
3           would collect Section 86 Reports. I'm not sure  
4           how many investigations were actually -- were  
5           actually -- were actually undertaken and then  
6           produced reports at the end of the day, but I'm  
7           not sure what they actually -- to this day I'm  
8           not sure what they actually did. Now, I'm  
9           talking about GPEB investigations.

10                   It was challenging, and I can only imagine  
11           how frustrating it must be for GPEB  
12           investigators, many of whom I'm certain went to  
13           the regulator's role expecting to have a more  
14           fulsome, more meaningful role. But that just  
15           didn't come. And I think that the rewriting,  
16           the rewriting the *Gaming Control Act* now is a  
17           really good step. I think current leadership,  
18           Mr. McLeod, Mr. Skrine, I think they're taking  
19           it in a different direction, which I think is  
20           healthy. I think they've still got a ways to  
21           go, but I think it's healthy and will be -- and  
22           will stand well in this province. And  
23           ultimately if they -- if it turns out that they  
24           do become an independent agency of government  
25           and the government treats them like that, it

1                   will be a much more effective tool because we  
2                   really, really, really need a strong, effective  
3                   regulator.

4           Q       Can you just clarify for me because you agreed  
5                   with me that they were territorial, but you also  
6                   indicated they couldn't investigate money  
7                   laundering. So --

8           A       Yeah, so they seemed to be territorial  
9                   particularly in areas where we would -- in our  
10                  interaction with the police. This is my  
11                  opinion. I'm not attributable to anyone else at  
12                  BCLC, but I got the sense that they thought that  
13                  we were trying to take over their jobs. So in  
14                  that sense I think they were territorial. I  
15                  think that through the ISA was a good example.  
16                  I think they would have preferred that we deal  
17                  exclusively through the police. But as I  
18                  mentioned before, I think this inquiry has heard  
19                  evidence that in fact reporting entities should  
20                  have a good relationship with the police. Does  
21                  that answer your question?

22          Q       Yes. But sorry, I think you said -- did you  
23                   mean that they preferred that BCLC have an  
24                   exclusive dealing with GPEB and GPEB have  
25                   exclusive dealings with police?

1 A Right. Yes.

2 Q Okay. And just my last couple of questions. In  
3 answer to a question put to you by commission  
4 counsel about the cash conditions program, it  
5 was put to you that that program was an example  
6 of a less blunt approach.

7 A Yes.

8 Q Do I take it less blunt than outright banning a  
9 player -- or just clarifying what you meant.

10 A Oh than just simply banning cash.

11 Q Banning cash. Can you tell me, though, how  
12 novel was this sourced-cash condition program at  
13 the time in the industry?

14 A I would suggest that it was extraordinarily  
15 novel. And still is to some degree. It does  
16 not come without risk to BCLC. But it is very  
17 novel. Our act talks about banning undesirables  
18 and not much in between. And so we saw -- we  
19 saw a problem that we felt we had to solve, and  
20 we created an environment, we created a  
21 mitigating strategy that seemed to -- seemed the  
22 best way to solve the problem.

23 Q So would you say it was a bold move at the time?

24 A I would say it was a bold move, yes.

25 Q And what about the later MSB directive, which I



1 believe was dated 2018 -- 2017, 2018?

2 A Yes. That was a bold move. And we would have  
3 MSBs associated to our business today if the  
4 MSBs had agreed to share their compliance  
5 program. And they didn't share and so we talked  
6 earlier about our risk. We talked earlier about  
7 our risk tolerance, when they failed or when  
8 they didn't want to share their compliance  
9 regime around AML that our risk tolerance went  
10 down and we had to stop doing business with  
11 them.

12 MS. MAINVILLE: Thank you, Mr. Desmarais. Those are  
13 my questions.

14 THE COMMISSIONER: Thank you, Ms. Mainville.

15 I'll now call on Ms. Tweedie for the  
16 British Columbia Civil Liberties Association,  
17 who has been allocated 10 minutes.

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

19 **EXAMINATION BY MS. TWEEDIE:**

20 Q Good afternoon, Mr. Desmarais.

21 A Good afternoon, ma'am.

22 Q Can I please ask you to turn to paragraph 118 of  
23 your affidavit.

24 A Yes.

25 Q So in this paragraph you present your vision, I

1                   suppose, for a new policing unit for financial  
2                   crime.

3           A       Yes.

4           Q       And among the recommendations contained in this  
5                   paragraph are that this unit should not be  
6                   solely dedicated to casinos and that it should  
7                   not be structured like a traditional police  
8                   force?

9           A       Yes.

10          Q       And that it should be built around people with  
11                   different skill sets, including lawyers,  
12                   accountants, information management specialists  
13                   and the like; that's correct?

14          A       That's correct.

15          Q       And you still hold those views?

16          A       I do.

17          Q       And these recommendations are of course based on  
18                   your experience and background in both law  
19                   enforcement and the gaming industry?

20          A       Yes.

21          Q       And is there another model that you looked to  
22                   that informed your recommendations here?

23          A       There were several models. I was really -- I  
24                   probably had one of the better police careers in  
25                   Canada quite frankly. I was very, very lucky.

1                   And I spent a lot of time overseas, both  
2                   lecturing and working with different law  
3                   enforcement agencies around the world. And so I  
4                   think I mentioned earlier in my evidence that  
5                   there are pieces of enforcement models,  
6                   investigative models, that I think -- I think  
7                   that through a deliberate well-considered sort  
8                   of building block approach to one of the -- to  
9                   creating this model you could take a piece from  
10                  a variety of different agencies, you know, the  
11                  UK serious fraud office, I think they've morphed  
12                  into something else. The Dutch had something  
13                  that was quite interesting. The Americans a  
14                  little bit here and there, much different  
15                  perspective on law enforcement than Canada does.  
16                  But at the end of the day some of the  
17                  Scandinavian countries have interesting  
18                  approaches to this. But I think there's enough  
19                  examples out there where Canada, if they had the  
20                  will, could harvest the best of the best from  
21                  around the world and create a great opportunity  
22                  to really tackle these problems. Because,  
23                  Ms. Tweedie, Canada has the best  
24                  evidence-gathering tools in the world, I think.  
25                  They're just not utilized properly or not

1                   utilized enough. Some of them are really,  
2                   really difficult to do, but they should be  
3                   difficult because man, where else in the world  
4                   can police do anticipatory search warrants?  
5                   Where else in the world can the police break the  
6                   law under certain circumstances to gather  
7                   evidence as long -- you know, within boundaries?  
8                   Where else in the world can you compel people to  
9                   do things in a criminal environment using  
10                  assistance orders and attach secrecy orders.  
11                  Like, we've got a really good inventory of law,  
12                  and it's what you do with it afterwards. And I  
13                  strongly believe that how we approach these  
14                  types of sophisticated -- these types of  
15                  sophisticated crimes, whether it be money  
16                  laundering, corruption or fraud, we really need  
17                  to take a second look at it and it should be  
18                  designed for a made in Canada approach that  
19                  respects privacy and obviously the rule of law.  
20                  We've got all the ingredients. We've got the  
21                  laws. We just need to build the framework to  
22                  actually breathe life into it. That will be a  
23                  significant difference of opinion than most of  
24                  my colleagues, I'm going to caution you.  
25                  Q       And what would most of your colleagues --

1           A     I think a lot -- I think many of my colleagues  
2                    favour the traditional police approach.

3           Q     And can you describe briefly what you mean by  
4                    the traditional police approach that your  
5                    colleagues would advocate for?

6           A     Well, I guess what's occurring right now. I  
7                    understand the federal government is going to  
8                    put another 100 million dollars into -- and now  
9                    I'm not speaking as a member of BCLC; I'm  
10                  speaking entirely, you know, based on my own  
11                  personal experience. I want to be very clear.  
12                  I understand the federal government is going to  
13                  allocate \$100 million -- I'm not sure when they  
14                  came up with that figure -- to deal with money  
15                  laundering. Okay. Well, that sounds great.  
16                  We've kind of been there, done that. And it is  
17                  being allocated to the RCMP as I understand it.  
18                  Again, been there, done that. The RCMP in many  
19                  respects is a great organization. But there  
20                  are -- but there are areas of enforcement that I  
21                  believe no law enforcement agency in Canada is  
22                  really fully equipped to deal with and this is  
23                  one of them.

24          Q     Okay. Thank you for that. Do you think that  
25                  the Joint Illegal Gaming Investigative Team, or

1 JIGIT, has been effective and efficient in  
2 combatting illegal gaming activities?

3 A It's hard for me to form an opinion in that I  
4 think you would have heard evidence earlier  
5 that, you know, the relationship between BCLC  
6 and the police is quite properly most of the  
7 time a one-way information flow, so I don't have  
8 insight on what exactly JIGIT has been doing.  
9 So it's hard for me to answer that. I haven't  
10 seen a -- I haven't seen a significant result  
11 arising from that, but as counsel for Canada  
12 pointed out, occasionally the police just can't  
13 talk to the public about it.

14 Q Do you think that JIGIT investigators have the  
15 skills and knowledge and ability to tackle money  
16 laundering in casinos?

17 A I think JIGIT, again, this is thirdhand, so I'm  
18 not -- you know, this is not from firsthand  
19 observations, but as I understand it, JIGIT is  
20 afflicted with a substantial turnover in  
21 personnel. You know, as a proceeds of crime  
22 investigator, I didn't really feel like I got it  
23 until I'd been there two or three years, and I  
24 was immersed in it. So the short answer is  
25 maybe they're much brighter than I am and

1           they're able to accommodate -- and they're able  
2           to learn much more quickly than I did, but it  
3           just doesn't seem like that that is the ideal  
4           model to investigate certainly money laundering.  
5           And even complex cheat at play, quite frankly.

6           MS. TWEEDIE: Okay. Thank you, sir. I believe those  
7           are all my questions for you. Thank you very  
8           much.

9           THE COMMISSIONER: Thank you, Ms. Tweedie.

10                         Now Mr. Butcher on behalf of Mr. Desmarais  
11           has been allocated 30 minutes

12           MS. MAINVILLE: Mr. Commissioner, my apologies. It's  
13           been brought to my attention that I forgot to  
14           mark as an exhibit the document I put to  
15           Mr. Desmarais, BCLC0065. If we could do that,  
16           please.

17           THE COMMISSIONER: Yes. That would be marked as the  
18           next exhibit, please.

19           THE REGISTRAR: That would be exhibit 525,  
20           Mr. Commissioner.

21           THE COMMISSIONER: Thank you.

22                         **EXHIBIT 525: Letter from Douglas Scott, re BCLC**  
23                         **Request for Policy Change Regarding Casino**

24                         Cheque Issuance – Sept 22, 2013

25           MR. BUTCHER: Madam Registrar, can you please pull up

1 exhibit 524 that was marked earlier today.

2 THE REGISTRAR: Do you want, have the one with the  
3 comment bubbles?

4 MR. BUTCHER: Yes, the bubbles.

5 **EXAMINATION BY MR. BUTCHER:**

6 Q Mr. Desmarais, you've got a paper copy of  
7 exhibit 524 in front of you now?

8 A I do.

9 Q And you've had an opportunity to review that in  
10 the last day or two?

window

11 A Yes.

12 Q And would you agree that the comments you made  
13 in that -- in the blue bubbles throughout that  
14 document accurately reflect your opinions and  
15 your state of knowledge of the circumstances  
16 being discussed in that document at the time it  
17 was written?

18 A Yes.

19 MR. BUTCHER: Thank you. We can take it down again.

20 Q I've got several questions for you with respect  
21 to policing activities. Yesterday you were  
22 asked by commission counsel, I think about -- it  
23 was suggested to you about a dealing Mr. Hiller  
24 had with an Inspector Yim from IPOC in 2009. Do  
25 you remember being asked a question about that?



1 A I do.

2 MR. BUTCHER: Madam Registrar, do you have the  
3 ability to pull up a transcript from November  
4 the 9th, 2020?

5 THE REGISTRAR: Yes. Just give me a short moment and  
6 I will look for it.

7 MR. BUTCHER: And to page 36 of that transcript.

8 Q As Madam Registrar is doing that, you'll recall  
9 that you told commission counsel that you were  
10 not familiar with this Officer Yim?

11 A No.

12 Q You're agreeing with me?

13 A Yes, yes.

14 THE REGISTRAR: Mr. Butcher, so I just want to  
15 reconfirm, November 9th, 2020, transcript of  
16 Mr. Hiller?

17 MR. BUTCHER: Yes, page 36, please.

18 THE REGISTRAR: 36. Okay.

19 MR. BUTCHER:

20 Q I hope I have the right page number.

21 A I think it's further down.

22 Q Further down?

23 UNIDENTIFIED SPEAKER: Page 36, line 18, I think.

24 MR. BUTCHER: There we go.

25 Q You'll see that Mr. Hiller gave evidence that it

1                   was not somebody from IPOC but a constable from  
2                   Richmond?

3           A     Yes.

4           Q     And that would explain why you would not have  
5                   known him at all?

6           A     Yes.

7           Q     Thank you. You can take that down now, please.

8                   And you're satisfied you've never had any  
9                   dealings with that individual, never spoken to  
10                  them to your knowledge

11          A     To my knowledge I haven't, no.

12          Q     We heard a lot about conflicting opinions from  
13                  within the police universe about whether or not  
14                  there was -- there were provable crimes of money  
15                  laundering happening at the casinos; correct?

16          A     Right.

17          MR. BUTCHER: Madam Registrar, I wonder if you could  
18                  bring up for me Mr. Kroeker's affidavit,  
19                  exhibit 419, and exhibit 13 to that affidavit.  
20                  Go to the page before that. Exhibit 13.

21          Q     Do you recognize this email? It was --

22          A     Yes.

23          Q     -- copied to you?

24          A     Yes.

25          Q     Is there anything about the circumstances of the

1           conversations that are taking place with the  
2           police at this time in 2014 that you can recall?

3           A     That we were engaged with both -- in 2014 were  
4           engaged with CFSEU.

5           Q     And with the detachment of jurisdiction, the  
6           police of jurisdiction in Richmond?

7           A     Yes. In addition to that I'd sent them a letter  
8           as well.

9           Q     And it appears from that email that the  
10          inspector who was -- had apparently had a  
11          history in money laundering was not concerned  
12          about money laundering at River Rock?

13          A     No. Mr. Hall, he was a colleague in the  
14          proceeds of crime unit when I was there in the  
15          1990s. He was subsequently commissioned and  
16          became the operations officer at Richmond  
17          detachment.

18          Q     And in it he makes some comments about concerns  
19          or lack or concerns about River Rock?

20          A     Right. He felt that -- yeah, he wasn't  
21          concerned about money laundering occurring on  
22          the floor of River Rock, if I recall correctly.  
23          However, he did concede that the proceeds of  
24          crime could potentially be gambled, and of  
25          course that was a concern that everyone shared.

1 Q I have a question about STRs. BCLC sends them  
2 to FINTRAC?

3 A Yes.

4 Q You don't send them to CRA?

5 A No.

6 Q Does CRA have an independent ability to access  
7 those STRs?

8 A That is my -- STRs, large cash transactions and  
9 casino disbursement reports.

10 Q Through their own agreement with FINTRAC?

11 A Yes. In fact I think it's in the statute.

12 Q Now, a fair amount of evidence has been given in  
13 this commission about the significance or even a  
14 direct correlation between \$20 bills wrapped in  
15 elastic bands, a direct correlation between that  
16 kind of currency and the proceeds of drug  
17 trafficking, and yesterday you said that that  
18 suggestion was challenging you?

19 A Yes.

20 Q Do you remember giving that evidence?

21 A I do.

22 Q And in your affidavit, I think it's -- I won't  
23 go there. In your affidavit you've made  
24 reference to some of your work at the VPD and  
25 particularly a project that you were involved in

1                   in which you were intercepting money drops from  
2                   a -- do you remember that?

3           A     Yes.

4           Q     Can you tell the Commissioner a little bit about  
5                   that police investigation or operation.

6           A     When I left the RCMP and went to Vancouver  
7                   police, a circumstance existed really throughout  
8                   Canada but of course being Vancouver police I  
9                   was concerned mostly with the City of Vancouver,  
10                  whereby large amounts of cash was being  
11                  generated by drug trafficking and there were US  
12                  law enforcement agencies who were looking to  
13                  partner with Canadian law enforcement agencies  
14                  to act in an undercover capacity to pick  
15                  these -- to pick this large-scale criminal cash  
16                  and posing as criminals and then moving it into  
17                  the custody and conduct of the US law  
18                  enforcement agency as a means of identifying who  
19                  the players were in terms of that particular  
20                  organization, as well as identifying the  
21                  underlying source of crime.

22                         The RCMP -- and I don't want to get in  
23                         trouble here, the RCMP I believe as a matter of  
24                         policy had declined to participant in those  
25                         types of operations. My opinion was that we

1                   were missing an incredible intelligence  
2                   opportunity, and so with permission from my VPD  
3                   superiors, we formed a money pickup team of  
4                   undercover operators and trained surveillance.  
5                   We trained them in money pickup operations and  
6                   we sent them to the States for money pickup  
7                   training there as well. We put some safeguards  
8                   in place around how we were going to operate  
9                   this team, not only from an officer safety  
10                  perspective but also -- but also business rules,  
11                  which files we're going to pick up and which we  
12                  weren't, and almost immediately the team began  
13                  to be enormously successful.

14                  Q     And I understand they made a number of pickups  
15                       of the proceeds of drug crimes in Canada and in  
16                       the US.

17                  A     The team was led by a sergeant with a huge --  
18                       with huge experience in drug enforcement. In  
19                       fact, he might carry the record for being  
20                       declared the expert drug expert in Canadian --  
21                       or in BC courts. He was also police officer of  
22                       the year at one point. He took conduct of the  
23                       supervision of this team, and he was the  
24                       individual that basically ran the team. He  
25                       would keep me apprised of the progress they were

1 making. I would approve the pickups, but he  
2 would execute. And my recollection is that I  
3 don't think they ever picked up less than  
4 \$500,000. I might be -- I might be out a little  
5 bit out on that, and I believe the most they  
6 ever picked up was 3.2 million.

7 Q And I understand that those pickups came from a  
8 number of different trafficking organizations.

9 A Yes. I understand that, my recollection is that  
10 there were more than a dozen separate  
11 organizations that he picked up from -- that the  
12 team would pick up from.

13 Q And what were the denominations of the currency?

14 A They were all over the map. And I spoke with  
15 this police officer just recently about this.  
16 His recollection -- and again, I am in  
17 transparency passing that on to you -- was that  
18 the denominations were more or less consistent  
19 with insofar as 20s are more or less consistent  
20 with the denominations of 20s in the general  
21 currency population. There were no -- to his  
22 recollection there were no 5 or 10s, but 20s,  
23 50s, 100s were common.

24 Q And was it that kind of experience in policing  
25 that led you to question the suggestion that's

1                   being made by others that there's a direct  
2                   correlation between \$20 bills wrapped in elastic  
3                   bands and drug trafficking?

4           A       Yes.  That type -- there are more examples but  
5                   that type.  Yes, that's the most recent.  That  
6                   team was I understand carried on well past the  
7                   time I left VPD until 2013 or 2014.

8           Q       Now, you've given a little bit of evidence about  
9                   some -- having some understanding of cultural  
10                  differences that might exist between the  
11                  Canadian community and those who have come from  
12                  East Asia, and as a police officer were you  
13                  involved in any investigations that involved  
14                  money laundering, fraud or other crimes in  
15                  China?

16          A       Yes.  I was involved in a number of  
17                  investigations where the proceeds from a crime  
18                  in China were resident in Canada.

19          Q       And during that time did you actually travel to  
20                  China?

21          A       I did travel to China.

22          Q       Met with law enforcement officials?

23          A       Met with -- yes, their version of the Department  
24                  of Justice as well as their federal police and  
25                  domestic police.



1           Q     As a result of that you gained some experience  
2                   and understanding of some of the financial  
3                   methods used by people in China sometimes?

4           A     Yes. Yes. It was largely cash based. Although  
5                   at that time, and we're talking about early  
6                   2000s, at that time digital payments were really  
7                   picking up steam, but cash was still a major,  
8                   major player, and there was a growing awareness  
9                   that particularly amongst the wealthy that they  
10                  ought to move their money outside Canada.

11          Q     There's been in this commission a bit of a  
12                  difference in the evidence of Mr. Hiller and  
13                  yourself with respect to the amounts of cash  
14                  being imported into Canada. Do you understand  
15                  that?

16          A     Yes.

17          Q     And yesterday you made some comment about the  
18                  declarations that you looked at not necessarily  
19                  being all of the money that was brought into  
20                  Canada?

21          A     Yes.

22          Q     And why would you say that?

23          A     In conversations with primarily CBSA officers  
24                  over the years, particularly seized cash, I  
25                  remember one of the -- I remember one of the

1 CBSA officers telling me that he felt that for  
2 every dollar they seize, there was 20 that got  
3 through. And it may have been higher than that.  
4 But, again, Mr. Commissioner, I want to  
5 emphasize I'm not an expert in this. This was a  
6 casual conversation, is anecdotal. This type of  
7 information is best elicited from CBSA officers.

8 Q You were taken yesterday to some of the articles  
9 that you wrote in 2013 and 2014. I want to take  
10 you briefly to exhibit 38. This is to your  
11 affidavit.

12 A Yes.

13 Q It's page 189?

14 A Yes.

15 Q And I want to take you to a paragraph in the  
16 middle of that page.

17 "BCLC's corporate security and compliance  
18 team is now working to change this by  
19 reducing the use of large cash  
20 transactions. There are many different  
21 reasons why it makes sense to move towards  
22 a cashless model, but the challenges that  
23 come with it are significant."

24 A Yes.

25 Q I've read that correctly?

1 A You have.

2 Q So it's fair to say that within six months of  
3 being at BCLC you were looking forward to a  
4 process that might allow for a cashless model at  
5 some point in the future?

6 A Yes.

7 Q Thank you, I've finished with that exhibit.

8 You were taken yesterday by commission  
9 counsel to exhibits 12, 13 and 15 of your  
10 affidavit that relate to the activities of  
11 particular individuals.

12 A Yes.

13 Q Are you able to identify in your own mind, not  
14 in your evidence, who the individual is that's  
15 referenced in exhibit 12?

16 A Yes.

17 Q And in exhibit 13?

18 A Yes.

19 Q And in exhibit 13?

20 A Yes.

21 Q And in exhibit 15?

22 A Yes.

23 Q Were all of those individuals subsequently  
24 placed either on conditions or banned?

25 A Yes. To the best of my knowledge they were.

1                   For certain the first one. And the other ones I  
2                   believe they were.

3           Q       At some point today, I think it was in  
4                   Ms. Mainville's examination, you were asked  
5                   about -- or the phrase "territoriality" was used  
6                   to describe the relationship between GPEB and  
7                   BCLC. Would the intervention by GPEB in the  
8                   information-sharing agreement be one of the most  
9                   clear examples of that?

10          A       I would say so.

11          Q       Ms. Tweedie asked you some questions about  
12                   paragraph 118 of your affidavit, the suggestions  
13                   that you have for a model future agency, and  
14                   you've said there that there's a need to move  
15                   away from the traditional police model. What do  
16                   you have in mind and what do you think the  
17                   problem is with the traditional police model?

18          A       I think policing has -- policing has evolved  
19                   over the past several decades. It's no longer a  
20                   simple one size fits all. It just isn't.

21          Q       And the folks that we are -- the police  
22                   agencies, whether it's RCMP or VPD, are -- the  
23                   folks that they are selecting for and then  
24                   ultimately hiring I believe aren't necessarily  
25                   the folks that would be content with sitting

1                   behind a desk for years on end analyzing  
2                   financial records.

3                   I think that there needs to be -- there  
4                   needs to be a different approach to how we look  
5                   at law enforcement and that -- and I hate the  
6                   word "law enforcement" -- investigative agencies  
7                   that look at it from a business perspective, an  
8                   enforcement or evidence-collecting perspective,  
9                   information management perspective, disclosure  
10                  as we all know in this room is a very  
11                  challenging situation, just to put it lightly.  
12                  But there are skill sets out there that actually  
13                  excel in those types of -- in those types of  
14                  environments.

15                  So we need to take a step back, as I said  
16                  before, and I don't want to repeat myself, but  
17                  we need to take a step back and say what is the  
18                  best possible agency, group, organization that  
19                  we can construct that will -- that fits the  
20                  Canadian experience.

21                  Q     And what about leadership? Do you think the  
22                          leadership should be with the police? Has that  
23                          traditionally been the model?

24                  A     That has traditionally been the model. I'm  
25                          not -- and, again, I will dramatically differ

1 from my colleagues in this regard -- I'm not  
2 even sure that police departments need to be led  
3 by a police officer. But certainly this unit, I  
4 think, needs to be led by someone who has a wide  
5 variety of skills.

6 Q You've made some comments in your affidavit and  
7 you were asked a little bit about it in your  
8 evidence about Mr. German's report and what you  
9 disagreed with it about or what your  
10 disagreements with it were. And I'm just going  
11 to ask you a couple of questions about that.  
12 Mr. German described at chapter 16 the efforts  
13 by all involved as a failed strategy. Did you  
14 agree with that?

15 A No. I really disagree with that. I think the  
16 strategy is sound. The thing about a strategy  
17 is that it's something that you test, you work,  
18 you work with; what works you keep, what doesn't  
19 work you don't keep and you iterate. The  
20 strategy didn't fail. The strategy is not  
21 finished. So I thought that was incredibly  
22 unfair and incredibly unfair to the person that  
23 wrote it.

24 Q Also a question about timing. The report was  
25 written in March -- on March 31st, 2018. Had

1           the suspicious cash transactions, large cash  
2           transactions continued until 2018?

3           A    No.  In fact by the end -- by 2017, by mid-2017  
4           the Suspicious Transaction Reports and Large  
5           Cash Transaction Reports had declined  
6           precipitously.  And I would have been hopeful  
7           that those in authority being briefed, whether  
8           it's by Mr. German or senior levels of  
9           government, would have been aware of that, that  
10          yes, there is a real challenge in 2014; we kind  
11          of got a handle of it in 2014, so large cash  
12          transactions started to decline, suspicious  
13          transactions were still an issue.  We dealt with  
14          those collectively with the service providers  
15          and others.  And from mid-2015 to mid-2017 they  
16          dropped dramatically and were trending  
17          downwards.

18          Q    You've used the phrase "falling off a cliff" a  
19          couple of times.

20          A    Yes.

21          MR. BUTCHER:  Madam Registrar, if you could bring up  
22          exhibit 482, please and exhibit 8, page 14 of  
23          that exhibit.

24          THE REGISTRAR:  Sorry, I just need a few seconds.

25          And, Mr. Butcher, which page do you want --

1 MR. BUTCHER: It's exhibit 8, page 14, please.

2 Q And this chart that was filed in the evidence of  
3 Caterina Cuglietta.

4 A This is CDR.

5 Q Wrong page. Keep going down.

6 A Yes. STR value, yeah.

7 Q This is a graphic illustration of that change  
8 in -- or reduction in STRs beginning towards the  
9 end of 2014?

10 A Yes.

11 Q Not to dwell on Mr. German's report for too  
12 long, but you disagreed with his recommendation  
13 that there should be a designated policing unit  
14 for casinos?

15 A Yes. It had to expand much more in the manner I  
16 just spoke of.

17 Q You disagreed with some of the recommendations  
18 that he had about service providers and the  
19 roles that they might play?

20 A Yes.

21 MR. BUTCHER: I'll just leave it at that. Thank you.  
22 Those are my questions.

23 THE COMMISSIONER: Sorry, I was muted. Thank you,  
24 Mr. Butcher.

25 Anything, apprising, Ms. Tweedie?



1 MS. TWEEDIE: Nothing arising. Thank you.

2 THE COMMISSIONER: Ms. Mainville?

3 MS. MAINVILLE: No, thank you.

4 THE COMMISSIONER: Mr. McFee?

5 MR. McFEE: Nothing arising. Thank you,

6 Mr. Commissioner.

7 THE COMMISSIONER: Mr. Gruber?

8 MR. GRUBER: Nothing arising, thank you.

9 THE COMMISSIONER: Mr. Skwarok?

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

11 THE COMMISSIONER: Mr. Smart?

12 MR. SMART: Nothing, thank you.

13 THE COMMISSIONER: Ms. French?

14 MS. FRENCH: Nothing, thank you.

15 THE COMMISSIONER: Ms. Hughes?

16 MS. HUGHES: Yes, Mr. Commissioner.

17 **EXAMINATION BY MS. HUGHES (continuing):**

18 Q I have three brief matters. First, I neglected  
19 to mark the last document I put to Mr. Desmarais  
20 as an exhibit. And that would be BCLC6659.

21 THE COMMISSIONER: Thank you. We'll mark that, then,  
22 as the next exhibit.

23 THE REGISTRAR: That will be 526, Mr. Commissioner.

24 THE COMMISSIONER: Thank you.

25 **EXHIBIT 526: Email exchange between Brad**

1                   **Desmarais to Robert Scarpelli, re SP Job Loss in**  
2                   **the event of reduction of High Limit Rooms**  
3                   **and/or elimination of Cash Buy-Ins over \$10K -**  
4                   **October 12, 2017**

5                   MS. HUGHES:

6                   Q     Mr. Desmarais, two areas I'd like to ask you  
7                   briefly about. First, in responding to  
8                   questions from Mr. Lightbody's counsel you told  
9                   Mr. Commissioner that BCLC was already doing  
10                  source of funds inquiries in the fall of 2014.  
11                  Can you tell Mr. Commissioner how many players  
12                  were put on cash conditions as a result of  
13                  BCLC's source of funds inquiries in 2014?

14                  A     There was one in late 2014, our largest player,  
15                  but there were also five or six to do with  
16                  chips.

17                  Q     So one to do with the source of cash --

18                  A     Yeah.

19                  Q     -- differentiated from chips; right?

20                  A     Yes.

21                  Q     And then can you tell Mr. Commissioner how many  
22                  players were put on cash conditions between  
23                  January and the end of August 2015 as a result  
24                  of the source of funds inquiries BCLC was making  
25                  at that time?



1                   happened from September 2015 onwards, that's  
2                   when we see a signature increase in the number  
3                   of players who are put on cash condition; is  
4                   that right?

5           A       Yes. That was -- that coincided with the  
6                   information that we received from FSOC around  
7                   players who were associated to -- who were  
8                   associated to the targeted cash facilitators.

9           Q       That's right. And it was also after GPEB  
10                   compiled the spreadsheet in the summer showing  
11                   the number of \$20 bills that was coming into  
12                   River Rock in the month of July 2015 as well,  
13                   isn't it?

14          A       Yes. I would -- actually, I'm not sure about  
15                   that, but if it did, I would suggest it was  
16                   coincidental as opposed to causal.

17          Q       So you're saying learning about the number of  
18                   20s that was coming into River Rock in July of  
19                   2015 did not have any causal effect on the  
20                   number of players that were placed on  
21                   sourced-cash conditions from September 2015  
22                   onwards?

23          A       My understanding is the first priority of  
24                   players that came in were the ones that were  
25                   identified by the police. The second priority

1 of player interviews, I believe, were players  
2 who are identified to have -- I want to say 20,  
3 more than 20 STRs in the previous year. But  
4 that's my recollection.

5 Q You're referring to priority 1 and priority 2  
6 players, aren't you, Mr. Desmarais? And where  
7 that language comes from is the document we saw  
8 earlier where you have the priority 1 players  
9 listed as those who are known to have received  
10 cash from Mr. Jin; correct?

11 A Yes. Based on police information, I believe.

12 Q And -- yes, and the surveillance records from  
13 the service providers?

14 A Yes.

15 Q Yes. And then priority 2, as you said, is other  
16 patrons who had 20 or more I believe it was STRs  
17 during a fixed period of time; correct?

18 A I believe so, yes.

19 Q Yes. And those players certainly weren't the  
20 ones that FSOC had given you information about,  
21 the number of STRs is information within BCLC's  
22 database; is that right?

23 A I'm sorry, I missed the -- if you could repeat  
24 that. I'm sorry.

25 Q Information about the number of STRs a player

1                   had did not come from FSOC, it came from BCLC's  
2                   internal database?

3           A       Oh, yes, yes.

4           Q       Thank you. Now, the other issue I wanted to ask  
5                   you about briefly was in responding to questions  
6                   from BCLC's counsel, you gave evidence that you  
7                   thought that government -- and I believe the  
8                   word you used was "blindly" accepted the German  
9                   recommendations. Do you recall giving that  
10                  evidence?

11          A       Yes.

12          Q       Yes. And, now, you're aware that following the  
13                  release of the German report an anti-money  
14                  laundering deputy minister's committee was  
15                  established. You're aware of that?

16          A       Yes. Yes.

17          Q       And Mr. Lightbody attended those meetings?

18          A       Yes.

19          Q       You did not attend them?

20          A       I attended one or two.

21          Q       Fair to say Mr. Lightbody was the person who  
22                  attended the most frequently?

23          A       Yes.

24          Q       Yes?

25          A       Yes.

1 Q And so I think you'll agree that he is better  
2 positioned to speak to whether or not government  
3 blindly accepted the German recommendations  
4 based on his interactions in the AML DMC  
5 meetings?

6 A I think again it's a matter of degree. I recall  
7 the Attorney General being very clear in the  
8 media that he was accepting all 48.

9 Q And so if Mr. Lightbody deposed in his affidavit  
10 at paragraph 342 that the committee's belief was  
11 that its role was to do the right thing and  
12 critically consider the German report  
13 recommendations, not to simply implement them,  
14 you have no basis to disagree with  
15 Mr. Lightbody's assessment, would you?

16 A No. I think I was saying that in relation to  
17 the impact it had on BCLC staff when the  
18 Attorney General said that he would accept all  
19 48 recommendations. Obviously there was a  
20 change in that.

21 MS. HUGHES: Thank you for that clarification.

22 No further questions, Mr. Commissioner.

23 THE COMMISSIONER: Thank you, Ms. Hughes.

24 Ms. Latimer?

25 MS. LATIMER: Mr. Commissioner, I don't have any

1 further questions for this witness. However,  
2 just before the witness is excused, I want to  
3 remind you, Mr. Commissioner, that counsel for  
4 Mr. Jin had indicated a desire to ask some  
5 questions of this witness but was unwell and  
6 unable to attend the hearing today.

7 THE COMMISSIONER: Yes. Thank you. I think in those  
8 circumstances we will -- I won't finally excuse  
9 Mr. Desmarais, but we will deal with that issue  
10 when and if it arises through counsel for  
11 Mr. Jin.

12 But I will certainly excuse you for the  
13 time being, Mr. Desmarais, and thank you for  
14 attending over these last two days and sharing  
15 your experiences and insights with us. You are  
16 excused at least for the time being. Thank you.

17 THE WITNESS: Thank you, Mr. Commissioner.

18 **(WITNESS EXCUSED)**

19 THE COMMISSIONER: And I think, Ms. Latimer, we'll  
20 adjourn now until tomorrow morning at 9:30.

21 THE REGISTRAR: The hearing is adjourned until  
22 January [sic] 3rd, 2021, at 9:30 a.m. Thank you.

23 **(PROCEEDINGS ADJOURNED AT 1:22 P.M. TO FEBRUARY 3, 2021)**

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