

**PROCEEDINGS AT HEARING  
OF  
JANUARY 26, 2021**

**COMMISSIONER AUSTIN F. CULLEN**

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**January 26, 2021**

**(Via Videoconference)**

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

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

THE COMMISSIONER: Thank you, Madam Registrar.

I think we'll now revert to Ms. Hughes on behalf of the province, who has been allocated 45 minutes.

MS. LATIMER: Mr. Commissioner, I apologize to interrupt. There was just one issue I hoped we might raise at the outset today before we get into questioning, if that's okay.

THE COMMISSIONER: Yes, fine, Ms. Latimer.

MS. LATIMER: Yesterday afternoon we had notice that the province might seek to put a couple of documents to the this witness that have not been previously produced to the commission and therefore which the witness has not had an opportunity to review those documents with the benefit of his counsel, and my suggestion this morning is that because the rules provide for five-day notice before -- must be given to the commission and that documents must be listed if they're going to be put to a witness but they do

1           also allow that the Commissioner has the  
2           discretion to adjust or vary notice periods and  
3           determine that documents can be put to witnesses  
4           or that that request can be denied, my  
5           suggestion this morning is that we deal with  
6           this document issue at the outset so that if the  
7           commission is inclined to exercise its  
8           discretion to allow the late documents to be put  
9           to the witness and if the province does intend  
10          to do that, that we can stand down so that  
11          Mr. Kroeker can have an opportunity to review  
12          those with his counsel before questioning  
13          begins.

14          THE COMMISSIONER: All right. Thank you.

15                 Ms. Hughes, can you enlighten us as to what  
16                 documents are at issue and whether or not you  
17                 intend to put them to Mr. Kroeker.

18          MS. HUGHES: Certainly, Mr. Commissioner. There was  
19                 late notice given. Only two of the documents  
20                 were ones that had not previously been listed.  
21                 As you know, it's become not routine but  
22                 somewhat frequent that documents turn up over  
23                 the course of the hearings and in preparation  
24                 for cross-examination, and that's what occurred  
25                 here.

1                   One of the unlisted documents involves an  
2                   email chain that the witness was directly  
3                   involved in from 2017, so we say there's very  
4                   little prejudice to him in having that document  
5                   put to him and indeed certainly not the five  
6                   days, but we did provide notice of this  
7                   yesterday, and it is his own email  
8                   correspondence, so I don't see there being  
9                   prejudice there.

10                   The second document which was unlisted is a  
11                   document that contains extracts from -- I should  
12                   say more fulsome extracts from BCLC --

13                   THE COMMISSIONER: I'm sorry, I'm going to interrupt  
14                   you. I just misheard you, or at least I didn't  
15                   hear you properly. Could you repeat that.

16                   MS. HUGHES: Certainly, Mr. Commissioner. The second  
17                   document that was unlisted is a document that  
18                   contains more fulsome extracts from iTrak  
19                   entries incident reports. These iTrak incident  
20                   reports, a more abbreviated version of the  
21                   contents is found in documents appended to  
22                   Mr. Kroeker's affidavit, and it became apparent  
23                   that a more complete version of the iTrak  
24                   reports, which were mentioned in the exhibits,  
25                   ought to be put before the commission, and we

1           were only able to pull that together over the  
2           weekend, and that's what's been put forward now.  
3           So, again, the information ought not to be new  
4           to the witness, but certainly in this format it  
5           is new.

6           THE COMMISSIONER: Okay. Thank you.

7                         Ms. Henein.

8           MS. HENEIN: Thank you very much, Mr. Commissioner.

9           These documents, I think the import of them is  
10          they were also not produced to the commission.  
11          So given the morass of documents, this would be  
12          a document that, number one, I've not had an  
13          opportunity to speak to Mr. Kroeker about.  
14          Number two, it's a document that I've had zero  
15          time to consider what emails came before and  
16          after it and the context of it, and so it is  
17          being presented to my client without him having  
18          had a chance to discuss it with me, without him  
19          having had a chance to review it and without him  
20          having had a chance, importantly, to look at  
21          what other documentation may be relevant on this  
22          point and around this email. And I have the  
23          same submission regarding the iTrak report,  
24          which is quite a detailed summary. I've had no  
25          opportunity to speak with him, and I've had no

1           opportunity to look through what other documents  
2           may be relevant to put this in proper context  
3           and make if of assistance to the commission.

4           There's no reason that this should have been  
5           provided yesterday evening after Mr. Kroeker's  
6           testimony. There's been more than enough time  
7           to minimally have not given such late notice --  
8           it's not even a day -- and had it been given two  
9           days, three days earlier, we would minimally at  
10          least have been able to canvass all of those  
11          things. We would have discussed it, and we  
12          would have looked at everything and it would  
13          have been minimal prejudice. But it's not just  
14          the late production, it's the actual lateness of  
15          this particular production that in my respectful  
16          submission is prejudicial and may potentially  
17          delay things unnecessarily.

18          THE COMMISSIONER: Ms. Hughes --

19          MS. HUGHES: Mr. Commissioner, if I --

20          THE COMMISSIONER: Do you have a response?

21          MS. HUGHES: Yes. First, I don't think it's quite  
22          fair to say it was provided in the evening.  
23          Notice was given at 1:22 yesterday afternoon.  
24          That may be evening for my friend, but it wasn't  
25          the evening here. Mr. Kroeker was still on the

1 stand at the time, so just to be very clear  
2 about that.

3 Also my friend takes issue with not having  
4 had a chance to review the email correspondence  
5 surrounding the additional email. Some of that  
6 correspondence is already in Mr. Kroeker's  
7 affidavit. He discusses the issues in and  
8 around paragraphs 89 through 91, and the  
9 exhibits attached there are all germane to this  
10 particular email. So it's a further email for  
11 which Mr. Kroeker puts the very facts in issue  
12 here into issue in his affidavit, so I don't  
13 think it's quite fair to say that there's no  
14 context for this.

15 And then with respect to the iTrak summary,  
16 again, this is material that, as my questioning  
17 will show, Mr. Kroeker was very familiar with at  
18 the time that it was germane, and so I simply  
19 don't agree that there's any prejudice here in  
20 the sense that he would be taken by surprise.  
21 That's simply not the case.

22 THE COMMISSIONER: Ms. Latimer, do you have any  
23 position on the issue?

24 MS. LATIMER: We don't take a position on whether the  
25 notice period should be varied, but we do



1 support a request if it's made that if the  
2 notice period is going to be abbreviated and the  
3 documents are permitted to be put to the witness  
4 that Mr. Kroeker's counsel should have an  
5 opportunity to discuss those documents with him  
6 this morning.

7 THE COMMISSIONER: All right. Well, this isn't the  
8 first time, and I expect it won't be the last  
9 time that documents have arisen *ex improviso*  
10 within the period stipulated by the rule for  
11 notice to a witness. The main point of the rule  
12 is to guard against harm in -- that ensures when  
13 a witness is caught off guard without time to  
14 prepare in response to our cross-examination.  
15 It seems to me that if harm can reasonably be  
16 abated by providing the witness an opportunity  
17 to review the documents and consult with counsel  
18 about the documents, then that would be an  
19 adequate guard in so far as any unfairness is  
20 concerned.

21 In this case if I understand it correctly,  
22 the documents at issue involve correspondence in  
23 which Mr. Kroeker participated and can be taken  
24 to have some knowledge of. In so far as an  
25 iTrak document is concerned, again, if I

1 understand it correctly, it provides some  
2 further context to a document that he has  
3 exhibited to his affidavit already. And in  
4 those circumstances, I don't think it can be  
5 said that without some opportunity to review the  
6 documents he would be or could be taken by  
7 surprise.

8 The concern raised by Ms. Henein about the  
9 prospect that there are other conditioning or  
10 contextualizing emails or documents is a  
11 legitimate one and had they had more time to  
12 look, they may find them, but it seems to me  
13 that can be abated somewhat by providing that if  
14 those emails or documents exist that provide some  
15 additional context, then liberty can be granted  
16 to Mr. Kroeker to reappear before the commission  
17 to produce and put those before the commission.

18 So I think what I'm going to do, then, is  
19 abridge the time within which the notice can be  
20 given to entitle the province or to permit the  
21 province to put these documents to Mr. Kroeker,  
22 but before that's done, Mr. Kroeker will have an  
23 opportunity to review the documents and discuss  
24 those documents with his counsel. And if  
25 something arises from that consultation, then

1           Mr. Kroeker and his counsel can bring that to  
2           the attention of the commission. That is if  
3           further directions are needed to guard against  
4           an unfairness.

5                     But I'm just a little uncertain as to  
6           what -- where we're at right now. Are you  
7           suggesting, Ms. Latimer that we stand down at  
8           this point or that we simply move on from  
9           Ms. Hughes to other counsel to conduct their  
10          examinations and stand down later to enable  
11          Mr. Kroeker and Ms. Henein to consult over the  
12          documents?

13                    Ms. Henein, do you have a position on that?

14          MS. HENEIN: I do. My preference is to stand down  
15          now because it will at least allow me a little  
16          bit more lead time if I need to look at other  
17          documents. So the sooner I can speak with him  
18          about them, the more work -- we'll just do it as  
19          the commission is proceeding.

20          THE COMMISSIONER: All right. That sounds sensible  
21          to me. How long do you think you'll need,  
22          Ms. Henein?

23          MS. HENEIN: About 20 minutes, 20 to 30 minutes.

24          THE COMMISSIONER: All right. We'll say 20 minutes,  
25          and if you need more time, simply advise Madam

1 Registrar, and we'll provide you with that  
2 additional time.

3 MS. HENEIN: Thank you very much.

4 THE COMMISSIONER: All right, we'll stand down.

5 THE REGISTRAR: This hearing is stood down for  
6 20 minutes until 9 -- 20 minutes is 5 after  
7 10:00.

8 **(PROCEEDINGS ADJOURNED AT 9:42 A.M.)**

9 **(PROCEEDINGS RECONVENED AT 10:04 A.M.)**

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

12 THE COMMISSIONER: Thank you, Madam Registrar.  
13 Ms. Hughes.

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

15 MS. WRAY: I'm sorry, Ms. Hughes, and I'm sorry to  
16 interrupt, Mr. Commissioner. It's BJ Wray with  
17 the Attorney General of Canada.

18 THE COMMISSIONER: Yes, Ms. Wray.

19 MS. WRAY: I just wanted to make a suggestion that I  
20 hope will streamline the cross-examination  
21 process a bit. The last thing I want to do is  
22 impede other participants' cross-examinations by  
23 continually jumping in and objecting to the use  
24 of documents, so I'm going to make a suggestion  
25 that if it's necessary for participants to put a

1 document on the screen rather than have the  
2 witness look at the document in hard copy, if  
3 Mr. Jin's counsel could just simply look away  
4 from the screen at that moment. This would  
5 alleviate me from needing to object time and  
6 again when documents are displayed and I think  
7 it would make the process a lot smoother, and I  
8 have no issues as long as Mr. DelBigio is fine  
9 with that. I certainly do not have any issues  
10 with that process in terms of sensitivity or  
11 confidentiality.

12 THE COMMISSIONER: All right. I take it, Ms. Wray,  
13 that you're only referring to documents that  
14 have not already been marked as exhibits and are  
15 not already on the commission's website, because  
16 those are open to the public.

17 MS. WRAY: Absolutely. That's correct. What we're  
18 objecting to are just the documents that are  
19 still outstanding with respect to the  
20 application that is before you and that we are  
21 in the process of dealing with now in terms of  
22 Mr. Jin's access to certain documents.

23 THE COMMISSIONER: All right. Mr. DelBigio.

24 MR. DELBIGIO: Well, it's important to be practical,  
25 and I will say that if somebody wants me to

1 swivel in my chair and look out the window  
2 instead of my screen, I will do so.

3 THE COMMISSIONER: Thank you. I think we can  
4 identify those documents which are fine for you  
5 to look at and those which may necessitate you  
6 gazing out the window as we go along. All  
7 right. Thank you. Thank you, Ms. Wray.

8 Yes, Ms. Hughes.

9 MR. MCGOWAN: I'll perhaps say that I assume that  
10 direction ought only apply to those documents  
11 which are not being displayed on the live stream.

12 THE COMMISSIONER: Yes. Yeah, documents which are  
13 otherwise open to the public are open to Mr. Jin  
14 and Mr. DelBigio, of course, yes.

15 MR. MCGOWAN: Thank you.

16 MR. DELBIGIO: I'm sorry, Mr. Commissioner, one other  
17 issue, and that is so that there is an  
18 understanding of what is going on and then  
19 depending upon what might later happen with  
20 respect to documents, I'm going to ask that if a  
21 document is being referred to where my client is  
22 being excluded, I'm going to ask that the  
23 document be identified in some manner so that  
24 later on I would have the potential ability to  
25 see it and connect it to the testimony. So in



1                   **EXAMINATION BY MS. HUGHES:**

2                   Q     Mr. Kroeker, you have a copy before you of your  
3                             affidavit?

4                   A     I do.

5                   Q     Excellent. Thank you. And just to better  
6                             understand your background, you're a lawyer; is  
7                             that right?

8                   A     That's correct.

9                   Q     And you're a practising member of the Law  
10                            Society of BC?

11                  A     I am.

12                  Q     And so you understand the importance of being  
13                            accurate and truthful in the evidence you're  
14                            giving to Mr. Commissioner today?

15                  A     Yes.

16                  Q     And I take it you read your affidavit and the  
17                            exhibits carefully to ensure that the evidence  
18                            contained in it was accurate and truthful?

19                  A     To the best of my ability, yes.

20                  Q     And you were careful not to give evidence in  
21                            your affidavit that misstates or could  
22                            potentially mislead the commission; is that  
23                            right?

24                  A     Certainly.

25                  Q     So it was just a couple instances I'd like to



1                   give you the opportunity to clarify before we  
2                   move on. First, I'd like you to turn to  
3                   paragraph 89 of your affidavit.

4           A        I have that before me.

5           Q        Great. And so about halfway through the  
6                   paragraph here you're talking about various  
7                   reviews and memoranda that GPEB has drafted over  
8                   time, and you're talking about a particular one  
9                   and you say about halfway through the paragraph:

10                         "My understanding from conversations with  
11                         officials from GPEB, although I cannot  
12                         recall who specifically, is that GPEB did  
13                         provide a copy of the audit report to a  
14                         journalist who published a story on it on  
15                         October 16th, 2017."

16                   Do you see that?

17           A        I do.

18           Q        And just to be clear, you're not suggesting in  
19                   giving that evidence that someone at GPEB leaked  
20                   the audit to the media, are you?

21           A        I don't know how it got to the media, that's  
22                   correct.

23           Q        Well, you'll agree with me, sir, that a more  
24                   accurate description would have been to say that  
25                   the journalist obtained a copy through a freedom

1 of information request. You'll agree with that?

2 A I don't know that.

3 Q Commission counsel -- my apologies, Madam  
4 Registrar, if you could turn up BCLC004077, this  
5 is a public document, so I don't think there's  
6 any impediment to it being put on the live  
7 stream.

8 You'll see here this is an article by  
9 Mr. Cooper published October 16th, 2017. Do you  
10 see that?

11 A I do.

12 Q And this is the article you were referring to in  
13 paragraph 89?

14 A Yes, I believe so.

15 Q And if you look at the third paragraph, you'll  
16 see clear on the face of the article it says:

17 "The audit and other enforcement branch  
18 documents obtained by Postmedia through  
19 freedom of information request."

20 Do you see that?

21 A Yes, that's what Mr. Cooper says in his report.

22 Q So you'll agree with me that it's clear on the  
23 face of the report that the documents were  
24 obtained through FOI?

25 A It's clear that's what he says, yes.

1           Q     Do you have any reason to believe that's not  
2                    true?

3           A     Yes. We had an instance where Mr. Cooper in  
4                    another story -- and I can't recall it off the  
5                    top of my head -- claimed to obtain records from  
6                    us through FOI and in fact he did not according  
7                    to our records, so I can't voice for the  
8                    veracity of Mr. Cooper's writing. It's quite  
9                    possible he did receive that through an FOI  
10                  request, but I wouldn't be privy to that in any  
11                  event. It would be on the Province's side of  
12                  the records, not BCLC's.

13          Q     So you have no information to suggest that it  
14                    was obtained any way other than through FOI, do  
15                    you?

16          A     That's correct.

17          Q     If you could turn next, then, please to  
18                    paragraph 94 of your affidavit.

19          A     I have that in front of me, yes.

20          Q     Okay. And at the bottom of the page here you're  
21                    talking about investigation of money laundering  
22                    and proceeds of crime, and you say here that  
23                    based on representations made to you by senior  
24                    investigation officials at GPEB, and you name  
25                    specifically Mr. Meilleur, Ms. Fitzgerald,

1                   Mr. Skrine and Mr. Ackles on their Special  
2                   Provincial Constable status and your knowledge  
3                   of the *Police Act*, it was your understanding  
4                   that GPEB investigators had the authority to  
5                   investigate money laundering as it related to  
6                   casinos given their status of Special Provincial  
7                   Constables. Do you see that?

8           A        I see that, yes.

9           Q        And you gave that evidence in the context of  
10           discussing your 2011 summary review; is that  
11           right?

12          A        I don't quite understand that question.

13          Q        If you look back at paragraph 93, you say:

14                    "For example, in my 2011 review ..."

15          A        Okay. I don't think those two compare --

16          Q        Perhaps --

17          A        I'm sorry.

18          Q        You don't think those two paragraphs relate to  
19                   each other?

20          A        No, I don't.

21          Q        Okay. Thank you.

22          MS. HUGHES: Madam Registrar, I note we still have  
23                   the media article on the live stream. Perhaps  
24                   we could take that down.

25          THE COMMISSIONER: Do you need that marked,

1                   Ms. Hughes?

2                   MS. HUGHES: No, I don't think so, Mr. Commissioner.

3                   THE COMMISSIONER: All right. Thank you.

4                   MS. HUGHES:

5                   Q     So perhaps, Mr. Kroeker, why don't we look at  
6                   your summary review. This is exhibit 141 and  
7                   this is a public document. Do you have a copy  
8                   of your review there, Mr. Kroeker?

9                   A     I'm just getting it.

10                  Q     Thank you.

11                  THE REGISTRAR: Mrs. Hughes, do you need me to put  
12                  this up, 141?

13                  MS. HUGHES: Yes, please, Madam Registrar, and I will  
14                  be going to page 14 of the review.

15                  THE WITNESS: I have that before me now.

16                  MS. HUGHES: Thank you, Ms. Kroeker. If you could  
17                  please turn to page 14.

18                  THE WITNESS: Sorry. I'm sorry, I don't ... Sorry,  
19                  actually, I don't have that.

20                  MS. HUGHES: It's shown on the screen.

21                  THE WITNESS: Okay, I can see it on the screen.  
22                  Thank you.

23                  MS. HUGHES:

24                  Q     So if you could scroll down just slightly, Madam  
25                  Registrar, I'm looking for the first paragraph

1 under the heading "Police."

2 So what you said in your report on this  
3 point in 2011 is in this paragraph, and in the  
4 second sentence you say:

5 "Investigation of money laundering  
6 offences is primarily a federal  
7 responsibility falling to the RCMP  
8 Proceeds of Crime sections, whereas gaming  
9 operations and oversight are provincial  
10 matters."

11 And then you go on to say:

12 "Additionally, criminal activity not  
13 directly related to money laundering is  
14 the responsibility of both GPEB and the  
15 police agency of jurisdiction where a  
16 gaming facility is located."

17 A Yes.

18 Q And then finally:

19 "GPEB's authority and mandate to  
20 investigate criminal offences is more  
21 limited than that of police agencies."

22 A That's true.

23 Q Do you see that?

24 A I do.

25 Q And those are the conclusions -- you reached

1                   those conclusions in 2011 when you wrote this  
2                   report; right?

3           A     I did.

4           Q     Yes.  And indeed you went on to find that:

5                   "GPEB does not have the authorities  
6                   required to conduct investigations that  
7                   necessitate carrying of firearms, require  
8                   surveillance to be conducted or call for  
9                   the interception of private  
10                  communications.  Investigations involving  
11                  these requirements and techniques must be  
12                  led by police agencies."

13                  Do I have that right?

14          A     Yes, that's correct.

15          Q     Yes.  And so nowhere in this report do you say  
16                  that GPEB had the authority to investigate money  
17                  laundering, do you?

18          A     I don't say that explicitly, but my  
19                  understanding is that they have the authority to  
20                  investigate any criminal offence that relates to  
21                  casino operations.

22          Q     Fair enough.  But what you said in the report  
23                  was that investigation of money laundering  
24                  offences is primarily a federal responsibility;  
25                  isn't that right?

1           A     I agree primarily but not exclusively.

2           Q     And if it required the types of investigative  
3                    techniques you list at the end of that  
4                    paragraph, then you would agree that GPEB  
5                    doesn't have the authority to do those  
6                    investigations; right?

7           A     Yes, I would agree.

8           Q     If we can turn now to paragraph 156, please, of  
9                    your affidavit.

10                    Madam Registrar, we can take the Kroeker  
11                    Report off of the screen.

12          A     156, I have that.

13          Q     Thank you, Mr. Kroeker. Here you're talking  
14                    about bank draft allegations and a list of 10  
15                    players, and you say in 156 that on February  
16                    3rd, 2017, Mr. Meilleur informed you that GPEB  
17                    determined 10 of BCLC's top players were using  
18                    the proceeds of crime to purchase bank drafts.  
19                    Are you with me?

20          A     Yes.

21          Q     Yes. And at the end after that paragraph you  
22                    say:

23                    "Mr. Meilleur refused to provide the  
24                    names, citing an ongoing investigation."

25          A     Correct.



1           Q     And so you're not meaning to suggest that there  
2                   was anything improper about Mr. Meilleur's  
3                   refusal, are you?

4           A     No, I'm just stating a fact.

5           Q     Okay. And you have a background in the RCMP and  
6                   you'll agree with me, I think, that it's  
7                   entirely appropriate not to disclose the names  
8                   of targets of ongoing investigations?

9           A     Generally, yes. It depends on the circumstances.

10          Q     Yes. I think you'll agree that a banning by  
11                BCLC at that point in time could have tipped off  
12                individuals that they were being investigated or  
13                their actions were being monitored; right?

14          A     It's possible, yes.

15          Q     Yeah, okay. If you could turn now, please, back  
16                to paragraph 47 of your affidavit.

17          A     I have that.

18          Q     Okay. And here you're talking about the 2013  
19                and 2014 time period, and this is when you were  
20                employed by Great Canadian?

21          A     Yes.

22          Q     Yes. And you say here that through the  
23                operation of the security and surveillance  
24                measures at casinos, BCLC and GCGC -- that's  
25                your acronym for Great Canadian; is that right?

1           A     That's my understanding, yes.  Yeah, that's  
2                     correct.

3           Q     Okay.

4                     "Continued to identify individuals who  
5                     were suspected of providing cash to  
6                     players.  The origins of this cash was  
7                     unknown."

8                     That's your evidence there?

9           A     Yes.

10          Q     Okay.  And if you can turn to paragraph 57.

11          A     Okay, I have 57.

12          Q     And you say here:

13                     "At that time -- "

14                     And I take it you're referring back to the  
15                     previous paragraph 56 where you say "in or  
16                     around 2013."

17          A     Yes.

18          Q     Okay.  And then so down at the end of  
19                     paragraph 57 you say:

20                     "BCLC was also reporting information it  
21                     had obtained from player interviews to law  
22                     enforcement and GPEB along with their  
23                     request for investigations.  Their  
24                     concerns were related to the risk of  
25                     proceeds of crime being brought into

1 casinos to gamble."

2 Did I read that correctly?

3 A Yes.

4 Q Yes. And so by 2013 at least you knew there was  
5 at a minimum a concern about the origins of cash  
6 and that it could be proceeds of crime; is that  
7 right?

8 A Probably towards the latter part of 2013, yes.

9 Q All right. I'd like to ask you a few more  
10 questions now, Mr. Kroeker, about your summary  
11 review, the one dated February 2011. And I  
12 don't know, Madam Registrar, if we'll need to  
13 put the document up. This is exhibit 141. And  
14 just to put it in context, this was done while  
15 you were with government; isn't that right?

16 A That's correct.

17 Q Yes. And prior to that time, you hadn't worked  
18 in the casino industry, had you?

19 A No.

20 Q And I think in your evidence yesterday you said  
21 that you relied on the FATF 2008 and 2009  
22 reports, you characterized them as the  
23 foundational documents?

24 A In part, yeah.

25 Q Did I summarize that correctly?

1           A     Yes.  Yes.

2           Q     Yes, okay.  And this report, this was the first  
3                   time -- sorry.  Are we having a delay, or ...

4           A     A little bit --

5           Q     Can you hear me all right?

6           A     No, I can.  It seems like there's a delay  
7                   between us.

8           Q     Yeah, it does.  Okay.  I'll try and go a bit  
9                   slower.  I tend to rush.

10          A     No worries.  We'll work it out.

11          Q     This was the first time you had been -- this was  
12                 the first time you'd been asked to do a report  
13                 on money laundering.  Do I have that right?

14          A     Yes.

15          Q     You had experience with proceeds of crime  
16                 through your work with civil forfeiture, and  
17                 you'd studied the issue in law school, I  
18                 understand from your evidence yesterday, but  
19                 this was the first time you'd looked at it for  
20                 the purpose of drafting a report; is that right?

21          A     You know, operationally, yes.  Outside of an  
22                 academic setting, that's correct.

23          Q     And in your report you recommended four specific  
24                 steps that BCLC could take and some  
25                 opportunities for GPEB as well; is that right?



1                    recommendations that you made for BCLC, numbers  
2                    2 and 3, number 2 at the end you recommended  
3                    that:

4                    "Training and business practices should  
5                    result in gaming staff having a clear  
6                    understanding that the duty to diligently  
7                    scrutinize all buy-ins for suspicious  
8                    transactions applies whether or not a  
9                    patron is considered to be 'known' to BCLC  
10                   or the facility operator. That was your  
11                   recommendation at the time?

12                   A     Yes, it was.

13                   Q     And then in paragraph 3 you say:

14                   "BCLC holds the view that gaming losses on  
15                   the part of a patron provide evidence that  
16                   the patron is not involved in money  
17                   laundering or other related criminal  
18                   activity. This interpretation of money  
19                   laundering is not consistent with that of  
20                   law enforcement or regulatory  
21                   authorities."

22                   Those were the conclusions you reached?

23                   A     That's true, yes.

24                   Q     And so you recommended that:

25                   "BCLC should be better align its corporate

1 view and staff training on what  
2 substitutes money laundering with that of  
3 enforcement agencies and the provisions of  
4 the relevant statutes."

5 Is that right?

6 A Yes.

7 Q And indeed the thrust of this paragraph, I think  
8 you'll agree, is that one ought not to simply  
9 rely on gaming losses, losing your money, as an  
10 indicator that money laundering is not  
11 occurring; is that correct?

12 A That's right. It's a data point, and it  
13 certainly weighs against a conclusion of money  
14 laundering, but you shouldn't draw that  
15 conclusion. You have to look at the transaction  
16 and the player in totality to draw your  
17 conclusions.

18 Q Right. And then just for completeness, in  
19 paragraph 4, to summarize, that's a  
20 recommendation that BCLC, and I think fair to  
21 say GPEB as well, should look at cash  
22 alternatives and developing ways to get cash out  
23 of casinos; is that right?

24 A Yes.

25 Q Okay. I'd like to ask you some questions now,

1 Mr. Kroeker, about your time with Great  
2 Canadian.

3 Madam Registrar, we can take that document  
4 off the screen. Thank you.

5 And so I understand you became the Vice  
6 President of Compliance and Legal at Great  
7 Canadian. Now, was that in November or December  
8 of 2015? Your affidavit says November in  
9 paragraph 7 and December in paragraph 32.

10 A Oh. That's an error. I apologize. It was  
11 November.

12 Q Okay. And Rod Baker was President and CEO of  
13 Great Canadian throughout your time there?

14 A Yes.

15 Q Did you report to him?

16 A Yes.

17 Q Now, if I can ask you to please turn to  
18 paragraph 61 of your affidavit.

19 A I have that.

20 Q Okay. And in this paragraph you're talking  
21 about correspondence you had with Inspector Hall  
22 of the Richmond detachment of the RCMP, and you  
23 attach there exhibit 13, an email exchange  
24 between you; yes?

25 A Yes, I did.



1 Q And in this paragraph you say that Inspector  
2 Hall conveyed his view that the RCMP were very  
3 satisfied with River Rock's procedures to  
4 prevent money laundering?

5 A Yes.

6 Q That's your evidence?

7 A That's what I took from his email --

8 Q And to be fair --

9 THE COMMISSIONER: Sorry, I think you're --

10 MS. HUGHES: Right, and that was my next question.

11 THE COMMISSIONER: I think you're speaking over one  
12 another a little bit, at least from my perspective,  
13 so if you could just kind of make sure there's a  
14 separation between question and answer. Thank  
15 you.

16 MS. HUGHES: Thank you, Mr. Commissioner. I  
17 apologize. I think we're dealing with a delay,  
18 some kind of a technical issue.

19 THE COMMISSIONER: It sounds like it.

20 MS. HUGHES:

21 Q All right, Mr. Kroeker. My question here is  
22 simply that that was your interpretation of  
23 Inspector Hall's email. That comment did not  
24 result from any audit or review by the RCMP of  
25 River Rock's measures at the time, did it?

1           A     I want to look at the email in detail before I  
2                    answer that, if I could, because I think he did  
3                    draw some conclusions in it.

4           Q     Sure. That's exhibit 13.

5           A     I have it.

6           Q     And I think you'll want to look at page 1.

7           A     Yes. So he says in his last sentence:

8                    "Let me reiterate on behalf of Rennie and  
9                    the Richmond detachment, we are very  
10                    comfortable with the River Rock's ability  
11                    not to facilitate money laundering."

12           So I -- he had --

13          Q     That's right?

14          A     He has considerable experience in the field, and  
15                    I took that to mean that he was aware of what we  
16                    were doing. From my conversations with him, I  
17                    believe he was quite aware of what we were  
18                    doing, but yes, you are correct, he did not come  
19                    in and conduct a review like FINTRAC would to  
20                    definitively measure the effectiveness of the  
21                    program.

22          Q     Next I'd like to ask you about -- you've heard  
23                    evidence about the \$50,000 threshold that was  
24                    apparently in place at River Rock for a period  
25                    of time; yes?

1           A     I have.

2           Q     And I take it you did not impose that threshold,  
3                    did you?

4           A     I did not.  And I was not aware of it at the  
5                    time.

6           Q     That's right.  It was ongoing throughout your  
7                    time as VP, but you say in paragraph 81 that you  
8                    had no knowledge of it; that's right?

9           A     That's correct.  I can't really say it was  
10                   ongoing for sure.  It certainly happened at  
11                   periods of time while I was there obviously,  
12                   yes.

13          Q     You understand that the evidence that has been  
14                   put before the commission today suggests this  
15                   issue was alive from 2010 through 2015?

16          A     That's correct.  But I don't think it was all  
17                   staff at all times is my understanding.

18          Q     And certainly nobody at River Rock discovered  
19                   the issue, did they?  It was discovered by BCLC?

20          A     Yes.  It was discovered by Mr. Tottenham and it  
21                   was brought to my attention, I believe, on  
22                   November 2nd, 2015.

23          Q     Now, shifting forward slightly to 2015, the  
24                   summer of 2015, fair to say, Mr. Kroeker, that  
25                   as of August 2015 you maintained publicly that

1 anonymous money laundering in what we would call  
2 sort of a typical typology, i.e. buying in with  
3 large amounts of cash, minimal play and then  
4 cashing out for a cheque or a higher  
5 denomination of bills, you maintained publicly  
6 that that was not happening at Great Canadian's  
7 facilities; is that right?

8 A No, that's not. What my position was was that  
9 you could not launder anonymously, which is  
10 different than what you said.

11 Q I thought I did put anonymously in there, but if  
12 I didn't, my apologies.

13 A You said that --

14 Q You recall being interviewed by --

15 A Sorry, I would like to respond. What you put to  
16 me is I said money laundering was not occurring.  
17 That's different than what I said, which is you  
18 couldn't do it anonymously. That was not a  
19 definitive statement to say money laundering was  
20 not occurring.

21 Q Fair enough. And the transcript will reflect my  
22 question, so we don't need to debate that. But  
23 you recall being interviewed by Glen Korstrom  
24 from *Business in Vancouver* in August of 2015?

25 A By a reporter, yes. I can't recall his name.

1           Q     And indeed, you had the same issue with  
2                   Mr. Korstrom that you and I just had in that he  
3                   attributed a quote to you saying that money  
4                   laundering wasn't happening at Great Canadian,  
5                   and you took issue with that and said well, no,  
6                   what I said was anonymous money laundering  
7                   wasn't happening; is that fair?

8           A     No. I don't agree with that. The headline on  
9                   the article as I recall it said that. It wasn't  
10                  in quotes. The quote appeared in the story, and  
11                  it's what I just said. It said you could not  
12                  launder money anonymously in the facility.

13          Q     Okay. Perhaps, Madam Registrar, if you could  
14                  please turn up GCGC\_PROD\_0050417. And out of an  
15                  abundance of caution, this ought not to be shown  
16                  on the live screen or to Mr. DelBigio.

17                         And, Mr. Commissioner, this is a produced  
18                         document for which late notice was given, so I  
19                         do need leave to refer to this document. As  
20                         you'll see this is email correspondence from the  
21                         witness, so there ought not to be any prejudice.

22           THE COMMISSIONER: Okay. Thank you.

23           MS. HUGHES:

24          Q     And so if you scroll down to the end of the  
25                  email chain before you, we see that a



1                   understood you to have told him, and the words  
2                   he attributed to you:

3                   "If you wanted to launder your money and  
4                   be anonymous, that simply isn't going to  
5                   happen for you."

6           A       Correct, that's what he says.

7           Q       Yes. And you say at the top of the page:

8                   "Saying if you want to try to launder  
9                   money and be anonymous is in no way  
10                  equivalent to 'there is no money  
11                  laundering.'"

12                   Is that fair? That's what you responded?

13          A       That's what I said, yes.

14          Q       Yes. And then on the first page of the email,  
15                   we see some further correspondence between you  
16                   and Chuck Keeling, Vice President of Stakeholder  
17                   Relations and Responsible Gambling at Great  
18                   Canadian?

19          A       Yes.

20          Q       And Mr. Keeling is saying:

21                   "The only agencies that can definitively  
22                   state whether money laundering occurs in a  
23                   BC casino like River Rock is FINTRAC  
24                   and/or the RCMP."

25                   That's what Mr. Keeling says?

1           A     That's what Mr. Keeling says, yes.

2           Q     Do you agree with that?

3           A     Yes. To a large extent, yes.

4           MS. HUGHES: Thank you. If I could please have that  
5                    marked as the next document, Mr. Commissioner.

6           THE COMMISSIONER: Very well. I think --

7           THE REGISTRAR: We are at 491, Mr. Commissioner.

8           THE COMMISSIONER: Thank you.

9           THE REGISTRAR: Exhibit 491.

10          THE COMMISSIONER: Thank you.

11                   **EXHIBIT 491: Emails re story showing how**  
12                   **vigilant Great Canadian Gaming is at preventing**  
13                   **money laundering - August 26, 2015**

14          MS. HUGHES: We can take that off the screen. Thank  
15                    you.

16          Q     I take it, Mr. Kroeker, to be fair, you weren't  
17                    denying that money laundering was occurring in a  
18                    quote unquote typical typology at the time in  
19                    Great Canadian's casinos, were you?

20          A     No, what I was saying is it would be difficult  
21                    to achieve that without being detected.

22          Q     Right. And indeed over a year earlier, in 2014,  
23                    Great Canadian had detected money laundering  
24                    occurring by way of the more typical typology,  
25                    i.e. cash buy-ins and cashing out or leaving



1                   with chips after no or minimal play, hadn't it?

2           A       There were instances of that, yes.

3           MS. HUGHES:  Yes.  Madam Registrar, if you  
4                   could please turn up --

5           THE WITNESS:  I'm not sure that's money laundering.  
6                   It would depend of the circumstances.  Players  
7                   do take chips home.

8           MS. HUGHES:

9           Q       Okay.  Let's look at BCLC6460.  This ought not  
10                   to be put on the live stream or shown to  
11                   Mr. DelBigio.  I think it will need to be put up  
12                   on the screen, though, for the witness.

13                   If you could turn, please, Madam Registrar,  
14                   to the second last page, page 3.  Thank you.

15                   And so what we have here is an email from  
16                   Daryl Tottenham to Mr. Beeksma, Mr. Husler,  
17                   Mr. Wakeland.  Do you know who those individuals  
18                   are?

19           A       Yes.  With the exception of Mr. Wakeland.  I  
20                   don't recall him.

21           Q       Okay.  They were employees of Great Canadian at  
22                   the time?

23           A       That's my understanding, yes.  No, sorry, no.  
24                   BCLC.

25           Q       Sorry, BCLC.  My apologies.  BCLC.



1 information, customer list.

2 Q It didn't want to lose your customers to another  
3 competitor casino?

4 A Until -- unless there were circumstances that  
5 warranted that the information should be shared  
6 because these people were engaging in behaviour  
7 that was inappropriate, then we would have had  
8 no problem with sharing the names, but until  
9 that was determined, yes.

10 Q And if we turn to the last page of the document  
11 we see the table that you provided to  
12 Mr. Desmarais.

13 A I'm not seeing that.

14 Q Okay. Perhaps if we could -- my version of  
15 document, BCLC6460 has a table attached, but  
16 it's also found at BCLC6461, so perhaps Madam  
17 Registrar could turn that up.

18 You recognize that as a table you forwarded  
19 to Mr. Desmarais?

20 A It probably is. I haven't looked at this for  
21 years, so I don't want to say definitively. I'm  
22 not sure.

23 Q Fair enough. We can sort out the missing page  
24 from the document issue later, but you'll agree  
25 with me I think, Mr. Kroeker, what this table

1                   shows is a list of patron names, dates, dollar  
2                   totals for buy-ins, and then under a heading in  
3                   the middle of the page -- I'm not going to read  
4                   the title of it -- but we see repeatedly  
5                   comments such as "LCT no play"?

6           A     Yes.

7           Q     "CDR without play."

8           A     Yes, this is a table -- if not this exact table,  
9                   a table very much like this was one that we kept  
10                  and provided to BCLC around players of concern  
11                  and transactions of concern.

12          Q     And so you'll agree with me that this table at  
13                  least shows circumstances that are indicative of  
14                  a typical typology of money laundering occurring  
15                  at River Rock in 2014?

16          A     I don't know if I would be that definitive. I  
17                  would say definitely it shows indicators that  
18                  warrant investigation for sure, yes.

19          MS. HUGHES: Thank you, Madam Registrar. We can put  
20                  that document off the screen.

21          THE COMMISSIONER: Do you want that marked, Ms. Hughes?

22          MS. HUGHES: Yes, please. Thank you, Mr. Commissioner.

23                  So perhaps we ought to mark both collectively.

24                  It's BCLC6460 and 6461.

25          THE REGISTRAR: Exhibit 492.

1 THE COMMISSIONER: Thank you.

2 **EXHIBIT 492: Consisting of two documents:**

3 **1. Email from Brad Desmarais re RR File**

4 **2014-52094, April 16, 2018; 2. Chart of**

5 **Suspicious Transactions by Patrons and BCLC**

6 **Enforcement Action**

7 THE COMMISSIONER: And that's not to be put on the  
8 website; is that right?

9 MS. HUGHES: That's my understanding, Mr. Commissioner.

10 THE COMMISSIONER: Thank you.

11 MS. HUGHES:

12 Q And so you say -- if we could turn now to  
13 paragraph 83 of your affidavit, please,  
14 Mr. Kroeker.

15 A I have it, 83.

16 Q Here -- now, we're talking about the \$50,000  
17 issue.

18 A Okay.

19 Q And you say that you directed BCLC to make a  
20 self-disclosure of non-compliance to FINTRAC;  
21 correct?

22 A That's correct.

23 Q And that BCLC also reviewed all daily LCT  
24 records of a 14-month time frame at River Rock;  
25 is that right?

1           A     Yes.  It was a look-back.

2           Q     Yes.  And you say:

3                     "The review found that 244 transactions,  
4                     approximately 1.3 percent of all LCTs for  
5                     that time period, had indicators of  
6                     suspicion that should have been reported."

7                     Do you see that?

8           A     244, yes.

9           Q     Yes.  And if you could please turn to  
10                    exhibit 19.

11                    Again, this ought not to be put on the live  
12                    stream, Madam Registrar.

13           THE COMMISSIONER:  Sorry, is this an exhibit on  
14                    Mr. Kroeker's affidavit.

15           MS. HUGHES:  It is, yes.  My apologies,  
16                    Mr. Commissioner.  Other than the Kroeker  
17                    Report, all of the exhibits I will be referring  
18                    to today are to his affidavit.

19           THE COMMISSIONER:  I think that's already been marked  
20                    as an exhibit and I don't think it's been  
21                    withheld from the live stream.

22           MS. HUGHES:  The Kroeker Report has not.  This  
23                    document has?

24           THE COMMISSIONER:  I don't think so.

25           MS. HUGHES:  Yes, that's right.  The Kroeker Report

1                   is public.

2           THE COMMISSIONER: Right. But so is the Kroeker

3                   affidavit.

4           MS. LATIMER: Mr. Commissioner, I don't believe the

5                   affidavit has been posted to the website yet.

6           THE COMMISSIONER: All right. I misunderstood that.

7           MS. HUGHES:

8           Q All right. So what we have here, Mr. Kroeker,

9                   in your affidavit you characterize this as --

10                  this document as summarizing BCLC's review. I

11                  think you'll agree with me a more accurate

12                  description is that it's a key messaging

13                  document for executive media training. Do you

14                  see that?

15           A Sorry, which paragraph of my affidavit?

16           Q You're at exhibit 19.

17           A Right. Though you say in my affidavit. I

18                  say -- something.

19           Q Paragraph 83.

20           A 83. Okay. Yes.

21           Q And if you turn to page 3 of the document.

22           A Yes.

23           Q Under the heading "River Rock Underreporting"?

24           A Yes.

25           Q We see some bullet points discussing the issue?

- 1           A     Yes.
- 2           Q     Is that fair?
- 3           A     Yes.
- 4           Q     That's the extent to which this document deals  
5                 with that issue?
- 6           A     Yes.
- 7           Q     Now, BCLC's review considered the past  
8                 14 months. Did you set the scope of that  
9                 review?
- 10          A     No. That was recommended to me by the AML team,  
11                 and it was done in consultation with FINTRAC. I  
12                 agreed to it.
- 13          Q     And so you also agree, I think, just to  
14                 establish a basic premise for the purpose of  
15                 today, LCTs, or large cash transactions, are  
16                 prescriptive, they must be filed for any  
17                 transaction of \$10,000 or more?
- 18          A     That's correct.
- 19          Q     And by contrast, SCTs or STRs are subjective,  
20                 whether or not they are filed depends on whether  
21                 there are reasonable grounds for suspicion or  
22                 indicators of suspicion?
- 23          A     Yes.
- 24          Q     And so in your affidavit you said there were 244  
25                 instances, but the second bullet point here says



1                   266. I take it you'll agree that the document  
2                   accurately reflects the number of incidents.

3           A       Which one? Obviously there's a discrepancy.

4           Q       Yes, well, maybe you tell me which one is  
5                   accurate, your affidavit or the document.

6           A       I would stick with my affidavit. This as you  
7                   pointed out is a media prepared document, so I'm  
8                   not sure of its complete accuracy.

9           Q       Okay. You said in your affidavit that  
10                   1.3 percent of all LCTs had indicators of  
11                   suspicion. Where does that 1.3 percent number  
12                   come from? It's not in exhibit 19.

13          A       I think that's just a percentage of 244 out of  
14                   the 20,445, unless my math is wrong.

15          Q       I see. And so I guess that percentage is or  
16                   isn't correct depending on whether it's 244 or  
17                   266?

18          A       Yes.

19          Q       But regardless of where that percentage comes  
20                   from, I think you'll agree with me that  
21                   expressing the underreporting as a percentage of  
22                   large cash transactions instead of as a  
23                   percentage of STRs underreports the percentage  
24                   of STRs that were missed; is that fair?

25          A       I'm not sure I agree with that. You could do it

1           either way.

2           Q     Right.  And if you do it as a percentage of  
3                 STRs, you'll get a higher percentage  
4                 underreported; isn't that right?

5           A     Yes, you could do it that way as well.  Yes, it  
6                 would be a higher percentage then.  That's  
7                 correct.

8           Q     And time doesn't permit me to take you to the  
9                 documents, but if you assume for me that for the  
10                period of July 2014 to December 2015 there were  
11                2,635 STR files, the number underreported is  
12                closer to 10 percent than 1 percent; fair?

13          A     If you've done the math, I'll accept that, sure.

14          Q     All right.  I'd like to turn now, Mr. Kroeker,  
15                 to your time at BCLC.  And you started there on  
16                 September 8th, 2015; is that right?

17          A     Yes.

18          Q     Yes.  And when you started you were provided  
19                 with an overview of what was going on at BCLC,  
20                 for lack of a better way of putting it?

21          A     A number of them, yes.

22          Q     Yes.  And we'll just talk about one of them.  If  
23                 I could ask you to please turn up, Madam  
24                 Registrar, BCLC3652, and again, this document  
25                 should not be put on the live stream or viewed

1                   by Mr. DelBigio.

2                   And what you have before you, Mr. Kroeker,  
3                   is a document titled "Corporate Security and  
4                   Compliance AML Document" prepared September 8,  
5                   2015, for VP CS&C. That's the role you assumed  
6                   on September 8th; yes?

7                   A     Yes.

8                   Q     And you recall being provided with this document  
9                   at the time? And you understand it was drafted  
10                  by Mr. Alderson?

11                 A     That's my understanding, yes.

12                 Q     Did Mr. Alderson walk you through this document,  
13                   or was it just something you were given to read?

14                 A     No, we had an in-person meeting over a  
15                   considerable period of time, and he walked me  
16                   through it.

17                 Q     Okay. And if you could turn, please, to page 4  
18                   of the document. And one of the issues that  
19                   Mr. Alderson identified for you in the second  
20                   paragraph was comments having been made there  
21                   was an unwillingness by BCLC leadership to  
22                   address what was in the police eyes clear  
23                   acceptance of huge volumes of cash which one  
24                   could reasonably suspect were likely proceeds of  
25                   crime. Do you recall discussing that with

1 Mr. Alderson?

2 A Yes. That was rearward looking, I believe.  
3 He's providing historical context.

4 Q So at least by 2015, then, the RCMP had been  
5 telling BCLC that one could reasonably suspect  
6 that the cash that was being brought in was  
7 potentially proceeds of crime?

8 A All I consider that was I became aware of that  
9 on September 8th and Mr. Alderson indicated to  
10 me that that was recent information that had  
11 come in in July or August of that year.

12 Q Okay. And further down the page in the  
13 paragraph starting on August 21st?

14 A Yes.

15 Q "Kevin Sweeney and Ross Alderson met with  
16 Len Meilleur."

17 That paragraph?

18 A I see it, yes.

19 Q Yes. And indeed you were told about that  
20 meeting and a discussion of the Section 86  
21 reporting. Do you recall that?

22 A During this meeting, yes.

23 Q Yes. And that August 21st meeting dealt with a  
24 spreadsheet that GPEB had created of cash  
25 buy-ins at River Rock in July of 2015; is that

1 right?

2 A That's -- I believe so. I'm not sure. I don't  
3 have any direct knowledge of what was discussed  
4 at that meeting.

5 Q No, but you understand or Mr. Alderson told you  
6 about that spreadsheet in your September 8th  
7 meeting; right?

8 A I don't recall if he specifically mentioned it,  
9 but he mentioned the concern about the value of  
10 STRs for July of 2015.

11 Q Well, certainly in this document Mr. Alderson  
12 writes:

13 "The current AML climate was discussed,  
14 and Meilleur indicated that GPEB had done  
15 an analysis of STRs from June 2015 and  
16 that the content of those STRs primarily  
17 had caused grave concern among the GM and  
18 ADM."

19 Do you recall discussing that?

20 A Yes. I believe that's what I just said, yes.

21 Q And my apologies. I think I might have  
22 misspoken and indicated the spreadsheet was only  
23 from July. This document indicates June.  
24 Needless to say, you were aware and discussed a  
25 spreadsheet that GPEB had created reflecting

1 large transactions at River Rock in those summer  
2 months?

3 A I became aware of a spreadsheet. I'm not sure  
4 it happened in this meeting. But certainly  
5 Mr. Alderson described that GPEB had done some  
6 work around data provided to them by BCLC and  
7 alarm had been coming out of that and it related  
8 to -- my understanding was STRs for July 2015.

9 Q Okay. Thank you. If you could turn now,  
10 please ... Sorry, I think we're having that lag  
11 again. Did you have anything else to add to  
12 your answer?

13 A I was going to say I note here that the  
14 reference is to June 2015. My understanding was  
15 the concern was around STRs for July of 2015.

16 Q Yes. I think you're right about that based on  
17 the other evidence we've heard.

18 If we could turn to page 6 of the document,  
19 please, Madam Registrar, under the heading  
20 "Considerations?"

21 So one of the considerations that  
22 Mr. Alderson discussed with you when you started  
23 was that "BCLC needs to consider the potential  
24 fallout from the current casino AML climate,  
25 specifically if it becomes public knowledge that

1                   there are connections to casino and proceeds of  
2                   crime."

3           A     He said that.  He did, yeah.

4           Q     Do you recall that?

5           A     Yes.  He said that, yeah.

6           Q     And so certainly by this point BCLC knew there  
7                   was a concern around the cash being brought into  
8                   casinos being proceeds of crime?

9           A     As of September 8, yes, for sure.

10          Q     Yes.  And further down the page Mr. Alderson  
11               says:

12                         "There should be concern that BCLC and SP  
13                         management --"

14                 And by "SP" you understand him to be referring  
15                 to service providers?

16          A     Yes.

17          Q     That would be, for example, Great Canadian?

18          A     Yes.

19          Q     And you would include yourself in service  
20                 provider management at the time?

21          A     Well, prior to that, yes.

22          Q     Yes.  You were part of Great Canadian's  
23                 management in July of 2015?

24          A     I was.

25          Q     So Mr. Alderson writes:

1                    "There should be concern that BCLC and SP  
2                    management will be accused of 'wilful  
3                    blindness.'"

4                    Do you see that?

5                    A    Yes.  I think he was making a point if we didn't  
6                    do something.

7                    Q    Do you recall discussing that with him?

8                    A    We would have discussed everything in this  
9                    document, I think it's fair to say.

10                  Q    Okay.  Thank you.  That will save some time.  So  
11                  then down the page Mr. Alderson writes:

12                    "From BCLC investigative interviews  
13                    conducted with VVIP players so far BCLC  
14                    had been able to determine that for a  
15                    number of players they readily admit to  
16                    not knowing the source of their cash, and  
17                    that they pay back in suspicious  
18                    circumstances using suspicious methods  
19                    with little or no interest.  This would  
20                    indicate transnational money laundering  
21                    rather than loan sharking.  Although cash  
22                    is still the main instrument of choice for  
23                    the VVIP players or 'whales' it will not  
24                    be acceptable in the public eye if more  
25                    player due diligence is not taken around



1                                   receiving cash."

2           A     Yes.

3           Q     Do you recall discussing those facts with  
4                   Mr. Alderson?

5           A     Yes, in detail.

6           Q     Yes. All right. And then finally over the page  
7                   we see the first bullet point. Here  
8                   Mr. Alderson is making some recommendations and  
9                   he says:

10                                "An acceptance by BCLC that underground  
11                                banking involving money and Chinese  
12                                nationals is suspicion and likely not  
13                                legal regardless of the original source of  
14                                funds."

15                   So did you take it that Mr. Alderson was  
16                   suggesting that BCLC needed to change its  
17                   thinking around underground banking and the  
18                   source of funds being used by Chinese nationals?

19           A     I took it, yes, that and that we needed to go  
20                   further and that we started to -- we needed to  
21                   start doing source of funds inquiries on the  
22                   individuals identified by the police.

23           Q     Right. And that's exactly what Mr. Alderson  
24                   writes and I take it you discussed in your  
25                   meeting. Under the summary section he says:

1                   "However, we could and should have been  
2                   doing more. That will no doubt impact  
3                   revenue and could have a significant  
4                   impact on revenue. However we must get  
5                   ahead of anything."

6           A     That was his view --

7           Q     However -- yes. And he says:

8                   "However, we must get ahead of anything  
9                   that may detrimentally impact the casino  
10                  industry."

11           And he goes on to note:

12                  "It is also the right thing to do."

13                  Fair?

14           A     Yes.

15           MS. HUGHES: Thank you. Mr. Commissioner, if we  
16                  could have that marked as the next exhibit,  
17                  please.

18           THE COMMISSIONER: Very well.

19           THE REGISTRAR: Exhibit 493, Mr. Commissioner.

20           THE COMMISSIONER: Thank you.

21                   **EXHIBIT 493: Corporate Security & Compliance**  
22                   **AML Document - September 8, 2015 (Redacted)**

23           MS. HUGHES:

24           Q     Next I'd like to ask you some questions,  
25                  Mr. Kroeker, around the MNP report, and you

1 understand this to be a report that GPEB  
2 commissioned in September of 2015 immediately  
3 following -- as a followup in part from the  
4 spreadsheet analysis that they'd conducted; yes?

5 A Yes.

6 MS. HUGHES: And that can be found, Madam Registrar,  
7 at BCLC 225. And my understanding is this is a  
8 public document, and so there ought not to be  
9 any restrictions on showing this document on the  
10 live stream. It hasn't been marked in this  
11 particular proceeding, but I don't understand it  
12 to be -- I understand it has been made public  
13 otherwise. Does counsel for Canada have any  
14 objection to that? All right. Hearing none --

15 MS. WRAY: No, I don't. Thank you.

16 MS. HUGHES: Thank you, Ms. Wray.

17 Q So, Mr. Kroeker, you received a copy -- so the  
18 report was published in July 26, 2016. We see  
19 that on the face of the document.

20 A Yes.

21 Q And I take it you received a copy of the report  
22 at that time and reviewed it.

23 A Yes.

24 Q And before we get to your review of the report,  
25 fair to say that there were certain issues that

1           arose in the course of MNP attempting to do the  
2           review that caused some delay? Counsel for the  
3           commission touched on these briefly yesterday.  
4           First BCLC took the position that it couldn't  
5           release the data to MNP for privacy reasons. Do  
6           you recall discussing that with Ms. Latimer?

7           A     That's not the position BCLC took, as I  
8           understand it. The position was that the  
9           information could be released either under a  
10          standard non-disclosure agreement that would  
11          always be part of an audit process or it could  
12          be released if the information privacy  
13          commissioner's office reviewed the circumstances  
14          and said an NDA and other security measures  
15          weren't required.

16          Q     And indeed that is what happened, the privacy  
17          commissioner eventually held that data could be  
18          provided; correct?

19          A     Given the measures that were put in place, yes.

20          Q     And the other issue that BCLC raised was that  
21          the data they provided to MNP ended up getting  
22          corrupted?

23          A     That was --

24          Q     It was transfer process?

25          A     That was the determination as I understood it

1                   that was made after this report was completed.

2                   Q   Fair enough.  Okay.  Thank you for that.  And so  
3                   looking at the report, if you could turn,  
4                   please, to pages -- we'll start on page 9.  Here  
5                   we have the summary of the findings and  
6                   recommendations that MNP made.  And at the  
7                   bottom of the page at 4.6, MNP concludes or  
8                   finds that it did not observe anything material  
9                   to suggest that the compliance program in effect  
10                  at BCLC and River Rock is not functionally  
11                  suitable to meet obligations under the *PCMLTFA*  
12                  and implementing regulations, and that's  
13                  consistent, isn't it, Mr. Kroeker, with the  
14                  FINTRAC audits and -- FINTRAC's compliance  
15                  audits of BCLC at the time; right?

16                  A   In large part.  I mean, FINTRAC did provide  
17                  findings and observations in the -- in its  
18                  review.

19                  Q   Sure, but I think you characterized FINTRAC's  
20                  compliance reviews as being largely positive?

21                  A   Yes.

22                  Q   And all I'm saying is that's consistent; right?

23                  A   Yes.  I just don't want to gloss over and make  
24                  it sound like the FINTRAC report was completely  
25                  clean.  It wasn't.  There were some findings

1                   that we had to address.

2           Q     Fair enough.  And thank you for that.  And then  
3                   at 4.7 over on page 10, counsel for the  
4                   commission Ms. Latimer took you to this extract.  
5                   And, again, the finding was that BCLC's CDD --  
6                   that stands for customer due diligence; correct?

7           A     Yes.

8           Q     That its CDD processes met the federal  
9                   regulatory regime but then MNP goes further to  
10                  make some additional recommendations; is that  
11                  fair?

12          A     Yes, it is.

13          Q     And those are the ones that Ms. Latimer took you  
14                  to at the end of that paragraph?

15          A     Yes.

16          Q     And so looking at all of these recommendations,  
17                  Mr. Kroeker, I think you'll agree with me that  
18                  the only one to which the corrupted data -- and  
19                  to be fair, I think the evidence you gave was  
20                  that there were blank fields for occupation in  
21                  some of the LCTs.  I know that's a very high  
22                  level summary, but is that fair?

23          A     Let's say there were blank -- there were fields  
24                  that were mandatory that were left blank.

25          Q     Right.  Okay.  So the only recommendation that

1                   that data issue would have affected is in 4.13;  
2                   is that right? That's where MNP notes that  
3                   issue?

4           A        Okay. I think -- I haven't looked -- I need to  
5                   think about it and read them all in detail to  
6                   really agree with that. But I don't think  
7                   that's an unfair characterization for the  
8                   purposes today.

9           Q        Okay. Thank you. We'll just -- let's just look  
10                   at a couple in particular, because I share your  
11                   concern there. Let's look at page 19. And here  
12                   we're talking about identification and  
13                   reporting. Sorry, my apologies. Under the  
14                   heading "Know Your Patron, KYP or Standard CDD"  
15                   so starting on the bottom of page 19, it  
16                   actually go over onto page 20. And the  
17                   recommendations here are for service providers,  
18                   source of funds and/or source of wealth  
19                   information is not gathered. This is 5.57?

20          A        Yes, but that's for the period of time, I  
21                   understand, the scope period for this audit.

22          Q        Yes.

23          A        I don't think it captured the fact --

24          Q        Yes.

25          A        -- yeah. Okay.

1 Q Fair enough.

2 MS. HENEIN: Sorry, Mr. Commissioner. It's Marie  
3 Henein. I note that my friend for the province  
4 is well over her time limit.

5 THE COMMISSIONER: Yes.

6 MS. HENEIN: And does she think she's getting close  
7 to wrapping up.

8 THE COMMISSIONER: Yes. I think it's time we checked  
9 in with you, Ms. Hughes.

10 MS. HUGHES: Thank you, Mr. Commissioner. And I do  
11 apologize. This is taking longer than I had  
12 expected, particularly given the technical lag  
13 we seem to be experiencing. I will need to ask  
14 for leave for more time. I expect I will need  
15 at least another half hour, possibly longer. I  
16 do note that the combined time allocation for  
17 BCLC, Mr. Kroeker, Mr. Lightbody, Mr. Desmarais,  
18 Great Canadian and Gateway all exceeds an hour  
19 50, and so I don't think requesting some  
20 additional time at this point is unfair in any  
21 way.

22 THE COMMISSIONER: Well, all right. I'll give you  
23 another 20 minutes.

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

25 Q So, Mr. Kroeker, my question for you here is



1                   that certainly the data issue does not impact  
2                   MNP's findings about customer due diligence,  
3                   does it?

4           A        There wouldn't be a direct connection. I would  
5                   need to think a bit more about that, to be  
6                   honest.

7           Q        Okay. Fair enough. And if you would turn over  
8                   to page 23, and here MNP is talking about  
9                   environmental factors, and if you go again one  
10                  more page over to page 24 in paragraphs 5.79 and  
11                  5.8, MNP finds that -- at the bottom of 5.79:

12                                "While the patron may be bona fide, the  
13                                unsourced cash being accepted by the  
14                                casino may be associated with criminal  
15                                activity and poses significant regulatory  
16                                business and reputational risk."

17                   You'll agree that the data corruption issue  
18                   would not have affected that finding, would it?

19           A        Not in a direct way that I can think of, yes.

20           Q        And the same for paragraph 5.8 where MNP  
21                   essentially describes the Vancouver model. The  
22                   data issue wouldn't have impacted that finding?

23           A        I don't think it would -- having just scanned  
24                   it, I don't think it would impact it directly, I  
25                   agree.



1                   independently marked and I think it ought to be.  
2                   If we could mark this as the next exhibit  
3                   please, Mr. Commissioner.

4           MS. LATIMER: Sorry to interrupt, Mr. Commissioner.  
5                   This report is already in evidence. It's  
6                   exhibit J to -- or it's appendix J to  
7                   exhibit 73, and actually there are some  
8                   redactions on that copy, so I don't recommend  
9                   that we mark it again.

10          THE COMMISSIONER: All right.

11          MS. HUGHES: Thank you, Ms. Latimer.

12          Q        Mr. Kroeker -- we can remove the document from  
13                   the screen, please.

14                   Mr. Kroeker, is it fair to say that at  
15                   various times in your tenure at BCLC you were  
16                   critical of GPEB's work?

17          A        Critical? I'd say at times there were anomalies  
18                   with the work that we pointed to and we thought  
19                   were errors. There wasn't --

20          Q        And one of those -- okay. And one of those  
21                   instances is what you talk about at  
22                   paragraphs 89 and following of your affidavit  
23                   when we're dealing with exhibit 21, which is a  
24                   GPEB internal review; correct?

25          A        Sorry, just give me a moment.

1 Q It's exhibit 21 to your affidavit.

2 A Yes. Yes, we felt there was --

3 Q And --

4 A There was an error in that report.

5 Q Right. And you say in paragraph 90 of your  
6 affidavit that it was predicated on what you  
7 characterize as inaccurate assumptions that the  
8 cash drop-offs were being live monitored by  
9 casino surveillance operators such that the  
10 players were knowingly permitted to buy in with  
11 cash obtained from cash facilitators, and you  
12 say:

13 "Data from BCLC systems indicate that was  
14 not the case."

15 Do you see that in paragraph 90?

16 A Yes, I do.

17 Q And you'll agree, sir, if you turn back to  
18 exhibit 21, and into the body of the document --  
19 this ought not to be put on the live stream or  
20 and Mr. DelBigio not to review this document in  
21 particular.

22 If you go to page 10 of 28.

23 A I have page 10.

24 Q That's -- yes. And all I point to here,  
25 Mr. Kroeker is what we see in these -- in this

1                   table are abstracts from incident reports;  
2                   that's right?

3           A       That's what it says, yes.

4           Q       Yes.  And did you go back and check the data  
5                   from BCLC's systems before you swore that the  
6                   data from its systems indicated that live  
7                   monitoring was not occurring?

8           A       No.  That's based on a report that was provided  
9                   to me by the AML team when they did a review of  
10                  this report once we became aware of it.  So they  
11                  went back, they checked on our data to see how  
12                  it aligned with what was reported here.

13          Q       So if in fact the full iTrak entries for the  
14                  abstracts in this review show that live  
15                  monitoring did occur for at least some of the  
16                  incidents discussed then you'll agree it's not  
17                  fair to say GPEB's assumption was inaccurate, is  
18                  it?

19          A       No, I wouldn't agree with that.  If a mistake  
20                  was made on behalf of my team, and some of the  
21                  cases were in fact live monitored then yes, I  
22                  would concede that, but the assumption is based  
23                  on all 45 cases, and my understanding from the  
24                  review done by the team and what they reported  
25                  to me was that live monitoring did not occur in

1 the cases.

2 MS. HUGHES: Okay. Well, let's look at GPEB5741.

3 Again, this ought not to be displayed on the

4 live stream or shown to counsel for Mr. Jin.

5 Mr. Commissioner, this is one of the documents

6 that was the subject of our adjournment this

7 morning. So I do need leave to refer to it.

8 THE COMMISSIONER: I think I've already

9 [indiscernible].

10 MS. HUGHES: My apologies. Yeah, 57 -- I gave you

11 the wrong number. My apologies. 5740. Maybe

12 5742. Sorry, I must have written down the wrong

13 number. It's the spreadsheet, Madam Registrar.

14 THE REGISTRAR: Sorry, Ms. Hughes, you said 5740

15 of --

16 MS. HUGHES: No, it's not 40.

17 THE REGISTRAR: I have 5741.

18 MS. HUGHES: Should be, Madam Registrar, a

19 spreadsheet. I'm not sure what's happened with

20 the document numbering. Perhaps we'll move on

21 while this is sorted out, but perhaps Madam

22 Registrar -- I'm just obtaining the correct

23 document number.

24 Q Mr. Kroeker, at paragraph 90 you say that BCLC

25 in fact introduced policy changes in 2016 to

1                   require video reviews to be done prior to large  
2                   cash transactions being completed so that  
3                   transactions are refused when they were linked  
4                   to a cash drop-off. You recall giving that  
5                   evidence in your affidavit?

6           A     I do.

7           Q     And you point to exhibit 23 as that policy?

8           A     I believe so, yes.

9           Q     This is October 7 refused cash buy-in by site  
10                directive?

11          A     Yes.

12          Q     And you'll agree with me this directive doesn't  
13                say anything about requiring video reviews to be  
14                done before a large cash transaction is  
15                completed, does it?

16          A     Yeah, but I think my understand was that's --  
17                that was understood that that was included in  
18                this and the training that Mr. Tottenham did  
19                along with this directive.

20          Q     Okay. Thank you. Madam Registrar, if we could  
21                remove the documents on the screen right now and  
22                perhaps put up GPEB5740.

23          THE REGISTRAR: Yes. I got a message saying that the  
24                document you wanted to refer to is 5741. Should  
25                I bring that up?

1 MS. HUGHES: Yes, please. Thank you, my apologies  
2 for the confusion.

3 Q So, Mr. Kroeker, going back to our discussion  
4 about live monitoring, what you have in front of  
5 you is the -- a more fulsome extract from the  
6 incident reports, a selection of them, to be  
7 fair, that are mentioned in the review, and we  
8 see, for example, in the first one, in the first  
9 line it says:

10 "Surveillance was live monitoring --"  
11 A patron.

12 Do you see that?

13 A Yes, I do.

14 Q And then what found its way into the review  
15 report is a subset of this narrative, and,  
16 again, we see for the next incident, again,  
17 another incident at River Rock and the first one  
18 was February 2014. Now we're in March of 2015.

19 "At approximately 1:00 a.m., surveillance  
20 received an iLPR alert ..."

21 And stopping there, that's a licence plate  
22 recognition alert; is that right?

23 A Sorry, where are you?

24 Q I'm in the second row of the table. Yellow  
25 highlighting.



1           A     Oh, yeah, I see it now, yes.

2           Q     It's iLPR or licence plate recognition alert?

3           A     It is.

4           Q     Yes. And no surveillance received that alert.

5                     "Live monitoring commenced and observed  
6                     the following."

7                     Do you see that?

8           A     Yes.

9           Q     Yes. And if we go to the next page, please,  
10                    Madam Registrar.

11                    We have another incident in 2015 at River  
12                    Rock, and it says in the first line:

13                    "Surveillance was conducting a live  
14                    monitoring on --"

15                    A particular patron.

16           A     Yes, but it doesn't say when.

17           Q     All right. I'm assuming live means live, but  
18                    that's fine.

19           A     Yeah, but --

20           Q     In the next entry.

21           MS. HENEIN: Sorry, will my friend let the witness  
22                    finish his answer, please.

23           THE COMMISSIONER: Yes --

24           MS. HUGHES: My apologies. We're dealing with a  
25                    delay here. I don't know what the problem is.

1           THE WITNESS: It's critical to understand when the  
2                           live monitoring actually occurs, whether it's  
3                           done by live monitoring or review after the  
4                           point.

5                           I think the point we were making was that  
6                           the data that we had showed that, as it was  
7                           explained to me by my team, that live monitoring  
8                           wasn't occurring during the handoff of the cash  
9                           in the parkade, and that was discovered later  
10                          during video review after the transaction was  
11                          completed. And that's critical because the  
12                          report says that in all 45 cases -- it actually  
13                          said 46, but if you count them, there's 45 --  
14                          that the player was being live monitored at the  
15                          time they arrived. There was a hand off of cash  
16                          in all 45 cases. The player then walked into  
17                          the casino and did a buy-in, and from that, it  
18                          was then concluded that the casino had to have  
19                          known that a banned player handed off money --  
20                          or a banned person handed off money to a player  
21                          and the cash was accepted nonetheless.

22                          The data as it was explained to me showed  
23                          that in fact in all or most of those cases, at  
24                          least, the player was not being live monitored  
25                          on arrival, and to put this in context, there

1           are over -- at the time I was there there was  
2           over 1,400 cameras covering the casino and  
3           surrounding property, and there are anywhere  
4           from six to eight operators, depending on the  
5           number -- how busy the facility was at the point  
6           in time. So it's physically impossible to live  
7           monitor everything that's going on all the time.  
8           So what would be the normal course until we  
9           changed the policy and made it prescriptive was  
10          that a player would present -- and they may or  
11          may not be live monitored -- if they weren't  
12          live monitored the transaction would occur and  
13          then prior to their shift ending the  
14          surveillance operator had to go back and trace  
15          the player back to see when they arrived to make  
16          sure something like this didn't happen.

17                 Clearly from this report and from our own  
18                 work, that wasn't working sufficiently because  
19                 there were handoffs, people were coming in with  
20                 cash when they shouldn't and it wasn't getting  
21                 detected until after the play commenced or in  
22                 many cases had concluded. So the policy was  
23                 changed subsequently later in the fall requiring  
24                 the properties to -- for large cash transactions  
25                 to complete their video review prior to the

1 transaction being accepted if they hadn't been  
2 live monitoring.

3 Q You'll accept, Mr. Kroeker, that at least in  
4 some instances it appears live monitoring was  
5 occurring?

6 A It appears, but I got this document this  
7 morning. It would have been helpful if I had  
8 been able to go back, look at our actual report,  
9 look at this actual report, and it does look  
10 like we've made errors. I allowed for that  
11 contingency when I wrote to Ms. Fitzgerald and I  
12 said in my email, I provided to her all our  
13 data, a summary of it, and I said, I would like  
14 to meet with you and your team, my team and your  
15 team, walk through this to make sure we haven't  
16 made errors, which clearly it appears we did  
17 based on this, and so that when we conduct --  
18 complete our report on this, that we have  
19 absolute accuracy. And that's in an email. I  
20 invited her to engage in that process with us.  
21 And they didn't.

22 Q Well, to be fair, Mr. Kroeker, GPEB didn't  
23 refuse to consider the information you were  
24 providing; what Ms. Fitzgerald actually told you  
25 was that they would look at the memos and make

1           sure there were no material errors and that the  
2           scope in the memo accurately depicts the work  
3           performed. Then they offered to meet with you  
4           to debrief as discussed. Do you recall that?

5           A     I recall that she said that she would accept the  
6           information I provided to her in an email. I  
7           invited her to look at the source data in iTrak.  
8           I don't believe that was ever done. And that  
9           was the last email I had from her. There was  
10          never a meeting. We never got together, and it  
11          died at that point. We never heard back as to  
12          whether they agreed or disagreed with our  
13          findings.

14          MS. HUGHES: All right.

15          Q     Exhibit 24, please, Mr. Kroeker, to your  
16          affidavit.

17          THE COMMISSIONER: Do you want this marked?

18          MS. HUGHES: Yes, please, Mr. Commissioner. Thank  
19          you.

20          THE REGISTRAR: 545 [sic], Mr. Commissioner.

21                   **EXHIBIT 494: A spreadsheet with five incident**  
22                   **reports from different casinos, dated between**  
23                   **February 14, 2015 and May 13, 2015**

24          MS. HUGHES: What we should have now, Madam  
25          Registrar, is an information note dated

1 April 11th, 2018.

2 Q And, Mr. Kroeker, you recognize this document?

3 It's a document you had input into; correct?

4 A Well, the team would have for sure. It was  
5 prepared, I believe, by BCLC communications.

6 Q And its intended audience was the minister?

7 A For this document, normally information notes  
8 would go to the minister, but sometimes they  
9 were just on file for the CO and [indiscernible].

10 Q Okay. Certainly like you say the normal  
11 practice was these notes would go to the  
12 minister?

13 A That's my understanding.

14 Q Okay. And if you could look at -- in the  
15 information note you raise three factual issues.  
16 First, the volume of unmitigated cash  
17 facilitation incidents; second, cash facilitated  
18 by a provincially banned individual; and third,  
19 connection to money laundering. I take it when  
20 you raise the factual issues you're saying there  
21 are inaccuracies in GPEB's work. Is that right?

22 A Sorry. I'm not clear where you're reading from.

23 Q In the headings in the document under  
24 "Discussion"?

25 A Okay. So volume of unmitigated cash, yes.



1                   laundrying because there were no zero casino  
2                   disbursements?

3           A     No.  It's an important data point, though.  It's  
4                   not consistent with typical money laundrying.  
5                   That's all it's saying.  It's merely a data  
6                   point.

7           Q     And Madam Registrar, if you could please bring  
8                   up BCLC4291.  This ought not to be put on the  
9                   live stream or shown to counsel for Mr. Jin.

10          THE REGISTRAR:  May I interrupt for one second.

11                   Mr. Commissioner, my apologies.  The last  
12                   exhibit, the spreadsheet should be 494.  I have  
13                   misspoke.

14          THE COMMISSIONER:  Thank you.

15          MS. HUGHES:

16          Q     So what you should see is the track changes  
17                   version of the information that we were just  
18                   looking at.

19          A     Okay.

20          Q     And, Madam Registrar, if you could please scroll  
21                   down to page 3.  And on the first bullet point  
22                   there we have a comment RK.  That's your comment  
23                   on this document?

24          A     It would appear to be.  I'm sorry, this is a  
25                   different document, though, than the other



1 document. That one's dated May, this one is  
2 dated April 11.

3 Q This one is dated May. It appears to be later,  
4 yes.

5 A Okay.

6 Q But we see the same bullet point 32:

7 "71 percent of the incidents reviewed  
8 resulted in zero casino disbursement."

9 And you've inserted a comment on the word  
10 "disbursement." Do you see that?

11 A I do.

12 Q What you say is:

13 "Need to explain the significance of this.  
14 E.g. while there may be a concern that  
15 proceeds could have been provided to the  
16 player, in these instances money  
17 laundering is not likely to be occurring  
18 because the entire amount brought to the  
19 casino was wagered and lost or something  
20 to that effect."

21 That's what you wrote?

22 A Yes. It's not typical with money laundering  
23 flowing through a casino where someone comes in  
24 with unsourced cash, unexplained for cash, buys  
25 in, gets a cheque or other instrument and leaves

1                   with an explanation providing now a legitimate  
2                   veneer for the funds. That was unlikely to be  
3                   occurring in this instance because all the money  
4                   was lost.

5           Q       Right. But by May 2018 you knew that the  
6                   typology of money laundering that was happening  
7                   in BC casinos wasn't the traditional typology.  
8                   It was the Vancouver model; right?

9           A       In part. That's not the only risk. There's  
10                  always the risk of more traditional money  
11                  laundering on typologies we're finding in  
12                  others.

13          Q       But you knew that the prevalent type of money  
14                  laundering in BC casinos by that point was the  
15                  Vancouver model; right?

16          A       I can't say that was the prevalent model. I  
17                  don't know that.

18          MS. HENEIN: Mr. Commissioner, it's Ms. Henein again.  
19                  My friend is over her time once again.

20          THE COMMISSIONER: Yes.

21          MS. HUGHES: Perhaps, Mr. Commissioner, if we might  
22                  proceed in this way. Perhaps if we could take a  
23                  brief adjournment. I'll go through my notes and  
24                  I expect that that will allow me to focus my  
25                  final questions and wrap up within five to



1                   those next two documents will be 495 and 496.

2                   Is that right, Madam Registrar.

3           THE REGISTRAR:   So BCLC4291 be exhibit 495?

4           THE COMMISSIONER:  Yes.

5           THE REGISTRAR:  And, I'm sorry, the other document

6                   number was ...

7           THE COMMISSIONER:  That was the one with the track

8                   changes.

9           THE REGISTRAR:  I'm sorry, Ms. Hughes, can you remind

10                   me which document number that was.

11           MS. HUGHES:  The document with the track changes is

12                   BCLC4291.

13           THE REGISTRAR:  So that's 495.

14           MS. HUGHES:  Yes.

15           THE COMMISSIONER:  Sorry, were they not two discrete

16                   documents?

17           MS. HUGHES:  No, Mr. Commissioner, the other document

18                   was an exhibit to the witness's affidavit.

19           THE COMMISSIONER:  I see.  All right.  Thank you.

20                   All right.

21                   **EXHIBIT 495:  BCLC Information note COMM-8669**

22                   **Final Report - May 11, 2018**

23           THE COMMISSIONER:  All right.  Go ahead.

24           MS. HUGHES:  Thank you.

25           Q       Mr. Kroeker, just briefly at paragraph 186 of

1                   your affidavit and onwards you discuss the EY  
2                   report. You know which report I'm referring to?

3           A        The cheque review, yes.

4           Q        Yes. And that report essentially concludes that  
5                   cash for cheques is effectively not occurring at  
6                   that point in time; is that right?

7           A        There were some anomalies, but yes, that's the  
8                   overall conclusion.

9           Q        And the EY report does not address the Vancouver  
10                   model of money laundering typology?

11          A        Maybe you could explain to me your understanding  
12                   of the Vancouver model so I know what I'm  
13                   agreeing to.

14          Q        The EY report does not deal with proceeds of  
15                   crime being brought into a casino being gambled  
16                   and perhaps the entire wager is lost and then  
17                   those proceeds being repaid through a  
18                   transnational money laundering scheme or through  
19                   an informal value transfer system?

20          A        That's correct, that wasn't looked at.

21          Q        And so you would not suggest the EY report can  
22                   be held out as concluding that the Vancouver  
23                   model typology of money laundering was not  
24                   occurring at that time?

25          A        Yes, I would agree with that.

1           Q     Throughout your time at BCLC, a portion of your  
2                    compensation was tied to BCLC's revenues; is  
3                    that fair?

4           A     Not really.  I don't like the way you  
5                    characterized that.  I would put it this way:  
6                    when I think for the first two years I was  
7                    there, my salary was fixed and 10 percent was  
8                    held back based on criteria.  As I understood  
9                    it, there was a corporate component, and part of  
10                   the corporate component did relate to the  
11                   financial performance of the company generally,  
12                   but there were other aspects and there was a  
13                   formula and it was weighted and had I do not  
14                   profess to understand how that worked.

15                         The other criteria were based on my -- were  
16                         based on -- sorry.  The other half of the  
17                         criteria, the other 50 percent of the holdback  
18                         was based on criteria that were unique to myself  
19                         and were set by the CEO and there was no revenue  
20                         aspect to those.  Those criteria were linked  
21                         generally to the performance of compliance  
22                         programs and the provision of legal services  
23                         across the company.

24           MS. HUGHES:

25           Q     Right.  And so I take it you're acknowledging

1                   that at least some component of the structure  
2                   you just described was tied to revenue?

3           A       Through a formula of some form, yes, that's my  
4           understanding.

5           Q       Yes, right.  And --

6           MS. HENEIN:  Sorry, I'm speaking.  Thank you.  That's  
7           not a fair characterization of the answer and of  
8           the breakdown that Mr. Kroeker just gave.  So if  
9           you want to repeat what his answer is, you  
10          cannot rephrase it in an unfair way.  He told  
11          you that 10 percent was corporate side.  He did  
12          not indicate if and how much of that was tied to  
13          revenue and whether that was related to AML  
14          impacting revenue or overall performance, so you  
15          have to be fair to the witness.

16          MS. HUGHES:  All right.  Thank you, Ms. Henein.  I'm  
17          satisfied with the evidence he's given on that  
18          point.

19                   And so, Mr. Kroeker, then, and just to be  
20          very clear --

21          MS. HENEIN:  I'm sorry.  I'm sorry, Mr. Commissioner,  
22          it doesn't matter whether my friend is satisfied  
23          with the evidence that she interrupted him with.  
24          The importance is that she has characterized it  
25          in an unfair way and she should be fair to the

1 witness.

2 THE COMMISSIONER: All right. Well, that may be so,  
3 but what her characterization is isn't evidence.  
4 What Mr. Kroeker said it was is the evidence.  
5 So I think we can move on from there.

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

7 Q And just to close out this loop, Mr. Kroeker,  
8 for the fiscal year 2016/2017, the entirety of  
9 your holdback, and recognizing that not all of  
10 that is in any way related to revenue, but the  
11 value of that holdback to you was approximately  
12 \$22,000. Does that sound about right?

13 A Before tax, probably, yes.

14 Q Yes. Thank you. And about the same, 22,000 for  
15 the following fiscal year, 2017/2018. Is that  
16 about right?

17 A I think so. The holdback was eliminated  
18 somewhere in that time frame, so if you have  
19 documents that show that, I would accept that.

20 Q To be fair, I would take you to them. They have  
21 been produced by BCLC and we did give notice of  
22 them, but unfortunately time just doesn't  
23 permit.

24 My last question, Mr. Kroeker, just to make  
25 sure I clearly understood some evidence you gave



1                   yesterday. You were discussing with commission  
2                   counsel the circumstances surrounding your  
3                   termination from BCLC and in paragraph 294 of  
4                   your affidavit you say that -- and if you would  
5                   like to turn -- sorry, I should give you a  
6                   moment to do that.

7                   A     I have it.

8                   Q     You say that you do not understand this to have  
9                   had:

10                                 "... anything to do with any failings in  
11                                 the performance of my duties as VP Legal  
12                                 and Compliance for BCLC, including in  
13                                 respect of AML or compliance."

14                   And, now, if I heard you correctly yesterday in  
15                   your evidence, you framed that slightly  
16                   differently. You said that your termination had  
17                   nothing to do with the AML file, BCLC's  
18                   responses to German or anything related. Is  
19                   that -- do you recall giving that evidence.

20                   A     I stand by what's in my affidavit. Maybe I  
21                   paraphrased it slightly differently, but ...

22                   Q     Okay. So I was going to put to you that the  
23                   characterization you gave yesterday in your  
24                   evidence about it not being related to the AML  
25                   file or the matters you discussed then was a bit

1 narrower than what was in your affidavit. So  
2 you maintain it had nothing to do with your job  
3 performance in any way?

4 A That's my understanding, yes.

5 Q Fair to say that during your time at BCLC you  
6 experienced some interpersonal conflict with  
7 other BCLC employees?

8 A I wouldn't characterize it that way.

9 Q Would you agree that you over your time at BCLC  
10 experienced interpersonal conflict with some of  
11 GPEB's employees?

12 A No, I wouldn't characterize it that way either.

13 Q Your termination followed an independent  
14 investigation by BCLC; correct?

15 A No. Not to my knowledge.

16 Q And then last question, I take it just to be  
17 very clear, though, you're not in any way  
18 suggesting that government had anything to do  
19 with your termination from BCLC, are you?

20 A I didn't say that.

21 Q And you're not suggesting that today?

22 A That's correct.

23 MS. HUGHES: Thank you. Those are my questions,  
24 Mr. Commissioner. And I do thank you for the  
25 indulgence in terms of time. I clearly far

1                   overshot my estimate today.

2                   THE COMMISSIONER: Yes. All right. Well, thank you.

3                   I do want to make one or two comments about  
4                   that. I think generally speaking counsel have  
5                   worked very hard to stay within the time that  
6                   they've either estimated or been allocated, and  
7                   sometimes the allocations and the estimate are  
8                   different. I recognize that Mr. Kroeker is an  
9                   important witness whose experience spans more  
10                  than one area in the gaming sector, and for that  
11                  reason I did allow you to carry on quite a bit  
12                  beyond what you've been allocated, Ms. Hughes.  
13                  I just want to encourage all counsel to maintain  
14                  the ethos that's prevailed so far in this  
15                  hearing, and that is trying to bring their  
16                  examinations within the time that they've been  
17                  allocated. I mentioned before and I'll mention  
18                  again that I don't think I've ever prevented  
19                  anyone from going over time provided that there  
20                  was a reasonable basis for it, but I do want to  
21                  emphasize that when examinations go far beyond  
22                  what the allocation is, it doesn't assist the  
23                  commission in dealing with this matter, the  
24                  matters it has to, in an efficient or  
25                  expeditious manner. But I am grateful to all

1                   counsel for their attempts so far to adhere to  
2                   that ethos. So we'll leave it at that.

3                   The other thing I wanted to mention is that  
4                   quite clearly we're not going to get to  
5                   Mr. Skrine today, Ms. Latimer, or Mr. McGowan,  
6                   so I think it's fair to say that he can be  
7                   excused from participation today and we will get  
8                   to him tomorrow when I understand that there is  
9                   time to hear him. Is that correct, Ms. Latimer?

10                  MS. LATIMER: That's correct. We have sufficient  
11                   time tomorrow to deal with his evidence.

12                  THE COMMISSIONER: All right. Thank you. So I'll  
13                   turn now to Mr. McFee on behalf of James  
14                   Lightbody, who has been allocated 15 minutes.

15                  **EXAMINATION BY MR. McFEE:**

16                  Q    Mr. Kroeker, I'd like to start with some  
17                   questions regarding the 2011 AML review report  
18                   that you prepared at the request of the BC  
19                   government and for the use of the minister. As  
20                   you point out in your affidavit, this review was  
21                   aimed at determining what AML policies,  
22                   procedures and strategies were in place, and  
23                   identifying any immediate opportunities to  
24                   strengthen the existing regime. Have I  
25                   described that accurately?



1           A     That's correct.

2           Q     And I take it that you concluded and you mention  
3                   in your affidavit at paragraph 29 that you  
4                   concluded that BCLC and its operators with the  
5                   oversight and guidance of GPEB utilized  
6                   standards and appropriate AML strategies aligned  
7                   with the *Proceeds of Crime (Money Laundering)*  
8                   *and Terrorist Financing Act*?

9           A     That's correct.

10          Q     So from your perspective at that time -- and of  
11                   course you weren't with BCLC or GPEB at that  
12                   time -- it seemed to you that BCLC and GPEB were  
13                   adhering to industry standards in Canada for the  
14                   gaming industry?

15          A     Yes.

16          Q     And I take it given you'd looked at the FATF  
17                   report your review went farther than that. Did  
18                   it appear to you that BCLC and GPEB were  
19                   adhering to industry-wide standards, not just  
20                   Canadian from an AML perspective?

21          A     To the extent that they were aligned with the  
22                   FATF recommendations, yes.

23          Q     And you were also to identify opportunities to  
24                   strengthen the AML regime and one of those  
25                   opportunities you identified was to establish

1 cash alternatives for use by casino patrons?

2 A Yes.

3 Q And did BCLC from your perspective embrace and  
4 take steps to implement that cash alternatives  
5 recommendation that you had advanced?

6 A Yes, they did. They were quite supportive of  
7 going in that direction.

8 Q And in your affidavit you depose that BCLC set  
9 up a steering committee and prepared a plan for  
10 the implementation for the cash alternatives?

11 A Yes.

12 Q And although you weren't with BCLC at the time,  
13 you were still with government, I understand  
14 from your affidavit you were a member of that  
15 committee?

16 A No. That came later when I went over on  
17 secondment to BCLC.

18 Q And was my client Jim Lightbody also a member of  
19 that committee?

20 A I believe so, yes.

21 Q And did you understand at that time that  
22 Mr. Lightbody was BCLC's VP of Casinos and  
23 Community Gaming?

24 A Yes.

25 Q And did you understand that Mr. Lightbody had

1                   relatively recently in the early summer of 2011  
2                   been appointed to that role?

3           A        I knew it was recent.  I don't know if I  
4                   understood that exact time frame, but yes, he  
5                   was recently into that role.

6           Q        And was this steering committee your first  
7                   introduction to Mr. Lightbody?

8           A        Yes.

9           Q        And while you were a member of that committee on  
10                  the secondment from your perspective was BCLC  
11                  and Mr. Lightbody receptive to your input as a  
12                  member of the committee?

13          A        Yes.

14          Q        And from your observations did BCLC display a  
15                  willingness to investigate alternatives to cash  
16                  in BC casinos?

17          A        Yes, they set up specific structures and  
18                  assigned -- reassigned staff specifically to  
19                  this task.

20          Q        And in terms of implementing that task we heard  
21                  evidence, and I take it it was your observation  
22                  that BCLC took steps to make cash alternatives  
23                  available to casino patrons?

24          A        Yes.

25          Q        And when these cash alternatives were being



1                    firstly considered by BCLC and secondly  
2                    thereafter being implemented, was there to your  
3                    knowledge ever any suggestion that changes  
4                    should not be pursued because it may negatively  
5                    impact revenue?

6                    A    That never came up in any of the conversations  
7                    or work I was involved in.

8                    Q    And as we've heard, you joined BCLC in September  
9                    of 2015?

10                  A    That's correct.

11                  Q    And was my client, Mr. Lightbody, BCLC's  
12                  president and CEO at that time?

13                  A    Yes, he was.

14                  Q    And so as the VP Legal Compliance and Security,  
15                  did you report directly to Mr. Lightbody?

16                  A    I did.

17                  Q    And as I read your affidavit, in addition to the  
18                  implementation of cash alternatives, while  
19                  Mr. Lightbody was the VP of Casinos and  
20                  Community Gaming and thereafter president and  
21                  CEO, did BCLC implement a number of additional  
22                  new AML policies, procedures and strategies?

23                  A    While I was there, yes.

24                  Q    And even in advance of you coming there, did you  
25                  learn when you got there that BCLC had already

1 established a dedicated AML unit?

2 A Amongst other measures, yes.

3 Q And in terms of cash alternatives, were there  
4 efforts to permit the buy-ins with debit, bank  
5 drafts and electrical funds transfers in  
6 addition to these patron gaming funds?

7 A That's correct, yes.

8 Q And were there efforts to engage law  
9 enforcement?

10 A My understanding were there -- there was, yes.  
11 I participated in some of those.

12 Q And did you also understand there were efforts  
13 to identify and ban cash facilitators?

14 A Yes.

15 Q Now, you did describe in your evidence this chip  
16 swap plan for September of 2015. However, it  
17 was delayed at GPEB's request to January 2016?

18 A That's what I was told, yes.

19 Q And that was virtually contemporaneous with your  
20 arrival at BCLC as I understood your evidence.

21 A Yes.

22 Q From your experience as a police officer and  
23 someone well versed in proceeds of crime and  
24 money laundering, did you view that as a missed  
25 opportunity?

1           A     I did.  Because the chips came back in without  
2                   detection.

3           Q     So when this chip swap was planned you'd  
4                   indicated in your evidence that you saw data  
5                   that showed that there was a large chip  
6                   liability at River Rock?

7           A     As high as \$12 million, yes.

8           Q     And in contrast, when the chip swap was  
9                   implemented on a delayed basis in January of  
10                  2016, do you recall what the chip liability had  
11                  become?

12          A     Not precisely, but I believe it was back down to  
13                  2 or \$3 million.

14          Q     And was the 2 or \$3 million level a relatively  
15                  normal level?

16          A     It was.  I call it maybe slightly higher than  
17                  the norm, but yes.  There has been much closer  
18                  to the normal range.

19          Q     And when you came to BCLC had you learned that  
20                  they were in the process of implementing a  
21                  source of funds declaration for casino patrons?

22          A     It was -- they were doing source of funds  
23                  inquiries.  It was being done if I can say sort  
24                  of on a bit of an ad hoc basis.  When I received  
25                  the briefing that I did on the first day from

1                   Mr. Alderson, he proposed going to the  
2                   36 players that the RCMP had identified as  
3                   receiving funds from -- through a criminal  
4                   source, and I fully agreed with that, but I said  
5                   he had to go much further, knowing that -- that  
6                   was the first time I received that type of  
7                   definitive information. For me that called into  
8                   question all large cash transactions, and I  
9                   asked him to make the program far more formal  
10                  and that it should apply to all large cash  
11                  transactions any time there was any concern  
12                  around the origin. And so he diligently worked  
13                  to implement that with the team, and I believe  
14                  it was by October, that was in place and  
15                  customers coming in with large amounts of cash  
16                  were routinely being first paused and then  
17                  having source of funds and interviews, so they  
18                  weren't quite there when I got there. They were  
19                  doing some of it. It was Mr. Alderson and I  
20                  that formalized it at that point in time.

21                  Q     And so was it relatively fully implemented on a  
22                         more proactive basis than in the fall of 2015 --

23                  A     Yes, yes. Yes, that's correct.

24                  Q     And in your evidence you described, and I think  
25                         Ms. Hughes took you to the briefing note, if I

1                   can call it that that Mr. Alderson had given you  
2                   with respect to these concerns arising from  
3                   large cash transactions and STRs. What was the  
4                   impact that you observed, if any, of the source  
5                   of funds declarations and those concerns?

6           A        I'm sorry, I'm not quite following your  
7                   question.

8           Q        Well, did you see an impact in terms of the  
9                   number of suspicious cash transactions that were  
10                  being reported after the source of funds program  
11                  was rolled out?

12          A        Yes. They started -- they had been declining,  
13                  and that decline continued and accelerated.

14          Q        And in your affidavit you also describe as an  
15                  AML measure updating software and analytical  
16                  tools at BCLC?

17          A        Yes, that's correct.

18          Q        So as an individual with substantial experience  
19                  in proceeds of crime, what's your view and your  
20                  experience with respect to the need for a  
21                  reporting entity such as BCLC to acquire and  
22                  implement business management software with  
23                  analytical capabilities as part of its AML  
24                  program?

25          A        It depends on the scale of your business, but in

1                   the context of BCLC, because its business had  
2                   increased and the money laundering risk that it  
3                   faces continued to increase, my view is it gets  
4                   to a point where you simply cannot manage the  
5                   data that you need without assistance from some  
6                   automation and analytics done by machine.

7           Q       And so when you joined BCLC, was BCLC in the  
8                   process of updating and upgrading its business  
9                   management software and analytical capability?

10          A       They were, yes.

11          Q       And what type of a software system did you learn  
12                   they were trying to put in place?

13          A       They were looking at -- it was sort of a  
14                   two-fold system. It was business analytics  
15                   generally, corporate analytics that would apply  
16                   to any type of business, and it also offered an  
17                   anti-money laundering module that would leverage  
18                   off the main tool, the main business analytics  
19                   tool.

20          Q       And in your role at VP Legal Compliance and  
21                   Security did you assume responsibility for that  
22                   software upgrade project?

23          A       I did.

24          Q       Okay. And was the software SAS software?

25          A       It was.

1           Q     And to your knowledge was that software widely  
2                   used in financial -- in the financial industry  
3                   and other sectors at the time?

4           A     I would say my understanding was it was used in  
5                   two or three of the big five banks for  
6                   anti-money laundering analytics.

7           Q     And did you understand that this SAS software  
8                   appeared in those circumstances to be a logical  
9                   and reasonable choice for BCLC to pursue?

10          A     I don't have a lot of depth into the selection  
11                  process. I did see some of the historical  
12                  documents, but there was really not much else  
13                  out there, and it was live and being used in the  
14                  banking sector, which gave it considerable  
15                  promise.

16          Q     And after the implementation has the SAS  
17                  business analytical components of the program  
18                  delivered as expected?

19          A     I was told by -- the main user within BCLC was  
20                  the business analytics group and also casino.  
21                  And I was told by that group that that tool  
22                  performed as expected, if not better.

23          Q     But I gather there was some issues with respect  
24                  to the implementation of the AML module?

25          A     Yes. It fell short on scope. It certainly

1                   didn't work as we had hoped or as we had been  
2                   promised.

3                   Q     I'd like to just switch to a moment for  
4                   Dr. German's interim recommendations on source  
5                   of funds in his December 2017 interim  
6                   recommendations. Do you recall that?

7                   A     I do.

8                   Q     And his first recommendation was that service  
9                   providers complete a source of funds declaration  
10                  for cash deposits and bare monetary instruments  
11                  of greater than \$10,000. Do you recall that?

12                  A     Yes.

13                  Q     To that point in time BCLC's AML measures had  
14                  been following a risk-based approach. Is that  
15                  accurate?

16                  A     That's correct.

17                  Q     And was that consistent with FATF guidance?

18                  A     It was. And I believe for casinos it was  
19                  somewhat unique. The risk profile in BC was  
20                  different than in other provinces and I think we  
21                  were the first to have to go to source of funds.

22                  Q     Well, did you consider Dr. German's interim  
23                  recommendation to be consistent with FATF's  
24                  risk-based recommendations?

25                  A     Well, it's a prescriptive approach. It's not



1 risk-based, so it's different in that regard.

2 Q And given your experience in proceeds of crime,  
3 money laundering, what are the pitfalls, if any,  
4 of a prescriptive approach?

5 A Well, there's advantages to both and sometimes  
6 you have to have a prescriptive approach, but  
7 generally what my experience has been is what  
8 the dangerous with prescriptive approach is it  
9 turns into a tick box exercise where staff are  
10 simply looking to tick a box off and not really  
11 applying themselves or thinking about what was  
12 going on in front of them. Where if you have a  
13 more risk-based approach, they have to be aware  
14 of suspicious transaction indicators, for  
15 instance, apply that knowledge and pay attention  
16 to what they're doing and to the player, to the  
17 transaction.

18 Q And is there also a risk in a prescriptive  
19 approach that when you set thresholds people  
20 will simply adapt their behaviour so they try  
21 and avoid the threshold?

22 A Yes. And I believe we actually saw that come to  
23 life after we implemented it.

24 Q When you say you actually saw that, saw that in  
25 what way?

1           A     So almost immediately after we moved to a  
2                    prescriptive approach, we saw unusual financial  
3                    transaction reports.  Those are alerts sent from  
4                    service providers to BCLC saying we think this  
5                    might be a suspicious transaction increase.  
6                    There's an uptick in those.  And that's because  
7                    customers were presenting with 10 or 11 or  
8                    12 thousand dollars being told that they now had  
9                    to do different things, provide a receipt, and  
10                  those types of things, and so they would pull  
11                  back money to get under the threshold.  Or  
12                  players who had normally played at that level  
13                  were suddenly playing only just under the  
14                  \$10,000 threshold, which gave the appearance of  
15                  the money laundering typology of structuring to  
16                  avoid reporting, which is concerning, of course.

17           MR. MCFEE:  Mr. Commissioner, I have been texted by  
18                    my friend commission counsel that I'm out of  
19                    time, but I'm almost finished.  I will need less  
20                    than five minutes, if I might have that.  I'm  
21                    sorry, you're muted, Mr. Commissioner.

22           THE COMMISSIONER:  Yes.  Go ahead, Mr. McFee.  Thank  
23                    you.

24           MR. MCFEE:  Thank you.

25           Q     I just want to discuss with you for a moment,

1                   Mr. Kroeker, BCLC's response to media reports  
2                   when you were with BCLC. And you have already  
3                   described how BCLC retained EY to investigate  
4                   and report on the -- and ascertain the accuracy  
5                   or otherwise negative media in relation to cash  
6                   for cheques. Do you recall that?

7                   A    Vaguely, yes.

8                   Q    And in your tenure as VP at BCLC, would BCLC  
9                   have a usual practice when faced with normal --  
10                  when faced with negative or potentially  
11                  inaccurate media reports?

12                 A    Yes. My experience was that the communications  
13                  department would go to the area within the  
14                  corporation that was affected. They would seek  
15                  out the facts and the information that was  
16                  available and then if there was errors or they  
17                  felt that the report was in error, they would  
18                  often provide that to the media outlet that had  
19                  published the story.

20                 Q    And did BCLC often in your experience also  
21                  provide briefing notes and information notes to  
22                  government, in particular to the minister's  
23                  office to address negative media reports?

24                 A    They would do that upon occasion, yes, but it  
25                  became much more prevalent during 2018, 2019.

1           Q     And in that time frame, 2018, 2019, from your  
2                    observations what was the effect, if any, on  
3                    providing those briefing notes, information  
4                    notes, to the minister in terms of government  
5                    responding to what BCLC perceived to be negative  
6                    media reports, if anything?

7           A     I didn't -- you're asking did the narrative  
8                    change. I didn't see any change.

9           Q     And from your observations, what was the effect  
10                   on BCLC's personnel of the media narrative that  
11                   was critical of BCLC's AML practices and the  
12                   failure for there to be any change in the  
13                   narrative flowing from the government's office?

14          A     It was demoralizing, particularly in the  
15                   compliance group but also corporate wide. I  
16                   personally felt put in a bind. I think other  
17                   executives did as well because staff were  
18                   pressuring us knowing that many of these reports  
19                   had serious inaccuracies and they were wondering  
20                   why the corporation was not responding and why  
21                   we weren't providing information to try and  
22                   correct the record. And we were put in a tough  
23                   spot because we couldn't provide the direction  
24                   that I understood we'd be given that we couldn't  
25                   contradict what was coming out of government.

1 Q Where did you understand that direction came  
2 from?

3 A I understood it was coming out of the Attorney  
4 General's office.

5 MR. McFEE: Those are my questions for you. Thank  
6 you.

7 THE COMMISSIONER: Thank you, Mr. McFee.

8 Mr. Butcher on behalf of Mr. Desmarais who  
9 has been allocated 10 minutes.

10 MR. BUTCHER: Thank you.

11 **EXAMINATION BY MR. BUTCHER:**

12 Q Thank you. Mr. Kroeker, I have a few questions  
13 relating to firstly your report in 2011 that  
14 many lawyers have referred to today. It's  
15 exhibit 141.

16 Mr. McFee specifically highlighted the  
17 conclusion that you made that BCLC was in 2011  
18 meeting industry standards respecting AML  
19 measures; correct?

20 A Yes.

21 Q Now, it's apparent to everybody in this  
22 commission that the management of money  
23 laundering issues has continuously evolved,  
24 developed and improved in the decade between  
25 that report and now.

1           A     I would agree, yes.

2           Q     Mr. McFee made reference to some of the steps  
3                    taken by BCLC between the time that you wrote  
4                    your report in 2011 and the time that you joined  
5                    them in 2015. Do you remember that?

6           A     I do.

7           Q     And they included the creation of the anti-money  
8                    laundering team, the signing of the information  
9                    sharing agreement with the police and the  
10                  process of developing cash alternatives with --  
11                  in the casinos; correct?

12          A     Yes.

13          Q     When you arrived at BCLC in late 2015, I presume  
14                  that you undertook a review of the AML measures  
15                  then in place at the corporation.

16          A     It wasn't a formal review, but yes, I turned my  
17                  mind to what were they doing. I had the team  
18                  explain to me the controls they had in place and  
19                  things that -- detail that I wasn't aware of  
20                  coming from a service provider.

21          Q     And was it your opinion after conducting that  
22                  review that BCLC was still meeting industry  
23                  standards that existed at the time?

24          A     Yes, but there was also brand-new information to  
25                  me around the -- coming from the police that

1                   showed that we had to go much further and  
2                   formalize source of funds and continue to push  
3                   forward and do more.

4           Q       And that simply is a reflection of the  
5                   continuous need for improvement in AML measures,  
6                   combined with the fact that the police are now  
7                   providing some information to BCLC that they'd  
8                   not been providing in the past?

9           A       Yes.

10          MR. BUTCHER: Those are my questions,  
11                   Mr. Commissioner.

12          THE COMMISSIONER: Thank you, Mr. Butcher. I now  
13                   call on Mr. Skwarok on behalf of Great Canadian  
14                   Gaming Corporation who has been allocated  
15                   15 minutes.

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

17          **EXAMINATION BY MR. SKWAROK:**

18          Q       Mr. Kroeker, when you were hired at Great  
19                   Canadian, what did senior management tell you  
20                   about their expectations of you with respect to  
21                   AML?

22          A       They wanted me to come in to review the program  
23                   to make sure they were compliant and to  
24                   essentially make sure there were no gaps and if  
25                   there were to close them.

1 Q During your time at Great Canadian did you form  
2 any impressions or opinion about senior  
3 management's attitude towards compliance?

4 A Everyone I dealt with was completely supportive  
5 of my role and the actions I took there.

6 Q And those individuals would include Terrance  
7 Doyle?

8 A Yes.

9 Q And would they also include Rod Baker?

10 A Yes.

11 Q Did management listen to you when you discussed  
12 compliance issues, and did they generally go  
13 along with your recommendations?

14 A Yes. And I actually had direct access to the  
15 board. Each quarter when the board met there  
16 would be a compliance report provided to the  
17 board in the presence of the CEO and then there  
18 would also be an in camera session where I was  
19 free to discuss any concerns I had around  
20 compliance with the board.

21 Q Were you placed under any budget restrictions  
22 when carrying out your AML activities?

23 A I wasn't.

24 Q So when you suggest that you wanted resources to  
25 assist you in AML activities, did you get them?



- 1           A     I did.
- 2           Q     All right.  Were you ever pressured by  
3                   management or the board of directors at Great  
4                   Canadian to limit AML controls in order to allow  
5                   the company to earn more revenue?
- 6           A     I was not.
- 7           Q     Were you ever pressured to ease up on VIP  
8                   players if they were engaged in questionable  
9                   cash transactions?
- 10          A     I wasn't.
- 11          Q     Are you aware whether anyone during your tenure  
12                   at GCGC, whether anyone in compliance or  
13                   surveillance ever looked the other way when a  
14                   VIP acted improperly regarding cash  
15                   transactions?
- 16          A     I can't recall any instances of that ever being  
17                   brought to my attention.
- 18          Q     Mr. Pat Ennis reported to you when you were at  
19                   Great Canadian, didn't he?
- 20          A     Yes.  He was the director of surveillance  
21                   operations.
- 22          Q     All right.  Did you form an opinion on  
23                   Mr. Ennis's competence and integrity?
- 24          A     Yes.  Mr. Ennis was clearly highly skilled in  
25                   his field, and I learned from other service

1 providers, other industry members and those who  
2 provide surveillance equipment all held  
3 Mr. Ennis in extremely high regard around his  
4 expertise and his commitment to his profession.

5 Q Did you ever develop concerns that he may be  
6 trying to cover up anything that may be a  
7 violation of AML rules or policies?

8 A Absolutely not.

9 Q Did you ever develop the opinion that Great  
10 Canadian was knowingly complicit in any money  
11 laundering scheme?

12 A No.

13 Q I'd like to talk for a moment, if I may, about  
14 the role of various players in the AML regime.  
15 You'll agree that the role of service providers  
16 like Great Canadian regarding AML is to file  
17 reports on such things as LCTs and UFTs; is that  
18 correct?

19 A Yes. They have that role.

20 Q And is that their primary role?

21 A I think it's more than that. You know, you have  
22 to make sure the staff are trained, are  
23 knowledgeable, they're on the lookout and they  
24 can identify these thing and that they will in  
25 fact escalate things that should be escalated to

1 the compliance department.

2 Q All right. Maybe we can expand my question.

3 Your perception of the roles of service

4 providers was to observe potential AML

5 activities and to file reports; correct?

6 A Yes. And to be diligent about that, yes.

7 Q And enforcement and investigation of problems in

8 AML, that's for others like GPEB, BCLC or the

9 police; correct?

10 A In terms of investigations, you mean with

11 respect to criminal law, that would be the

12 police and GPEB and regulatory offences would be

13 GPEB.

14 Q Including money laundering?

15 A Yes, in my opinion.

16 Q Do you think that Great Canadian is doing a good

17 job at reporting?

18 A Yes. We weren't perfect. We made mistakes at

19 times, and we were frequently audited, actually.

20 I can't remember a month really that we weren't

21 under audit. Either FINTRAC was in auditing,

22 BCLC was in auditing or BCLC had a private

23 sector audit firm in auditing or GPEB was in

24 auditing, so we got lots of feedback on the

25 extent to which we were reporting properly and

1                   the completeness of the work we did. Not to say  
2                   that we weren't without exceptions, but when we  
3                   got that feedback it was addressed.

4           Q       Thank you, sir. If I could take you to  
5                   exhibit 13, please.

6           A       I'm assuming you mean to my affidavit. Correct?

7           Q       I do. Sorry.

8           A       I have that.

9           Q       This is the email from -- to yourself from  
10                  Mr. Hall; correct?

11          A       Yes.

12          Q       And Mr. Hall in fact was an RCMP inspector at  
13                  the time; correct?

14          A       He was.

15          Q       You were asked a question by my learned friend  
16                  for the province about the amount of information  
17                  the police had in developing an opinion such as  
18                  the one contained in this exhibit. Could you  
19                  elaborate on what information to your knowledge  
20                  the RCMP had to found a letter such as this?

21          A       Well, we were resident in their jurisdiction,  
22                  and so they were frequently at the property, and  
23                  I had many conversations -- well, not many -- we  
24                  met periodically, maybe three or four times a  
25                  year, and we would discuss the controls, money

1                   laundrying concerns, what to look for and those  
2                   types of things, so again, I don't want to  
3                   overstate it. Mr. Hall didn't come in and do an  
4                   audit, and he didn't do a transactional analysis  
5                   or anything like that, but he knew money  
6                   laundrying and he worked in the field and he  
7                   knew what we were doing from a controls  
8                   perspective.

9                   Q       Various sentences from this email had been  
10                   referred to by others. I'd like to put a more  
11                   coherent presentation on it. If I might read  
12                   from this, please.

13                                "As you recall I used to work at IPOC for  
14                                other a decade and conducted numerous  
15                                money laundrying investigations and have a  
16                                real in-depth understanding of money  
17                                laundrying. I have spoken to Rennie."

18                   Who is Rennie?

19                   A       Mr. Nessel, Rennie Nessel, was the detachment  
20                   commander, so he was in charge of Richmond  
21                   detachment at the time.

22                   Q       "... about the issue, and we as the police  
23                   force of jurisdiction are very satisfied  
24                   with the regimes, policies and procedures  
25                   followed by River Rock, BCLC, FINTRAC, BC

1 gaming branch and the police to prevent  
2 the activity. We do not have a concern  
3 about money laundering at River Rock."

4 I'll omit the next few words and continue on:

5 "I don't believe the casinos in BC can  
6 even be a participant in a sophisticated  
7 organized money laundering process with  
8 the existing reporting regimes designed to  
9 prevent the activity."

10 And at the end:

11 "Let me reiterate on behalf of Rennie and  
12 the Richmond detachment, we are very  
13 comfortable with the River Rock's ability  
14 not to facility [sic] money laundering.  
15 Hope this helps."

16 What type of -- did you draw any type of comfort  
17 from this letter?

18 A Yes. The concern was around the large cash  
19 transactions coming in and part of that money  
20 for sure coming through underground banking or  
21 informal value transfer systems and whether or  
22 not those funds were being corrupted with  
23 proceeds.

24 What this did was it reaffirmed my  
25 assessment that we were in good shape in terms

1 of controls around standard money laundering  
2 typologies, that this money laundering risk  
3 remained, and it confirmed sort of my assessment  
4 of where we were standing at that point in time.

5 Q Did the RCMP ever tell you subsequently that it  
6 had developed concerns with Great Canadian's AML  
7 practices?

8 A No. The next thing I heard was when I joined  
9 BCLC and I received the police information that  
10 they had confirmed that 36 players were  
11 receiving money that came from proceeds.

12 Q Was there a suggestion at that time that Great  
13 Canadian was not observing appropriate AML  
14 policies?

15 A No.

16 Q So over the last 10 years or so there's been an  
17 ongoing discussion and meetings with BCLC, GPEB,  
18 the police, et cetera, about potential money  
19 laundering problems associated with large  
20 amounts of cash used to buy in in casinos.  
21 You're aware of that; correct?

22 A I am.

23 Q And there are a variety of reports, internal  
24 primarily, prepared by some of these parties  
25 about their concerns. You're aware of that?

1           A     I am.

2           Q     Was Great Canadian invited to participate in  
3                   these discussions about the issues surrounding  
4                   money laundering?

5           A     Generally not. As the concern increased through  
6                   2014, 2015, we became invited to a few  
7                   interactions but not many. These were  
8                   discussions primarily occurring between GPEB,  
9                   the police and BCLC in various forms.

10          Q     Do you have any idea why Great Canadian wasn't  
11                   invited to join in?

12          A     I don't think any service provider was.

13          Q     Is that because their job is to do as they're told  
14                   by BCLC and GPEB?

15          A     That might be a bit blunt, but I would say  
16                   service providers are largely policy takers.

17          Q     All right. BCLC was always aware of how much  
18                   cash was coming into River Rock and other  
19                   casinos; correct?

20          A     Yes.

21          Q     So there was no secrets, no attempts by Great  
22                   Canadian to conceal large amounts of cash,  
23                   including 20s; right?

24          A     I never saw anything like that during my time  
25                   there.



1           Q     Let me ask you some questions about that.  Could  
2                    GPEB have set a limit on how much cash could be  
3                    brought in to a casino and used to buy in chips?

4           A     I believe they could have done that through  
5                    either terms of registration or a directive,  
6                    yes.

7           Q     Could BCLC have imposed the maximum cash buy-in?

8           A     Yes and no.  I think they could have done it to  
9                    some extent and in fact tried, but at a certain  
10                   point it's going to become a government  
11                   decision, and that's what occurred in my  
12                   instance where we tried to impose a limit.

13          Q     Let me ask you this, sir:  did Great Canadian,  
14                    particularly River Rock, have the authority to  
15                    issue a policy on its own that restricted the  
16                    amount of cash someone could bring into the  
17                    casino to buy in?

18          A     I do not believe they had the authority to do  
19                    that.  The relationship was contractual and I  
20                    think that would have been outside of the  
21                    contractual terms.

22          Q     That's fine.  What about the issue of large  
23                    amounts of \$20 bills that were coming?  Did GPEB  
24                    have the authority to limit the number of 20s  
25                    coming into the casino?

1           A     I believe they did if they wanted to approach it  
2                   that way. They could have put a limit on cash  
3                   generally or on certain denominations.

4           Q     Did BCLC have a similar authority?

5           A     Again, I believe to an extent, and it would then  
6                   become a government decision.

7           Q     Did Great Canadian have the authority to limit  
8                   the number of \$20 bills that were used to buy in  
9                   at River Rock?

10          A     I don't believe they did.

11          Q     And that's because why?

12          A     Again, policy takers. Their relationship  
13                   running the casino is contractual with the  
14                   British Columbia Lottery Corporation that is now  
15                   provided for under those contracts.

16          Q     So no matter how concerned Great Canadian may  
17                   have been about suspicion transactions, it did  
18                   not have the authority to create a general  
19                   policy that restricted the size of cash buy-ins  
20                   or the restricted denomination of bills used for  
21                   buy-ins; is that correct?

22          A     I don't believe they had the authority to do  
23                   that.

24          Q     I'd like to move on to a topic about source of  
25                   funds. There's been some suggestion that the

1 source of funds rules that were imposed were  
2 responsible for the reduction in cash buy-ins.  
3 In your affidavit you suggested that that's not  
4 necessarily so, that there are other potential  
5 explanations, including a worldwide decline in  
6 table play for Chinese players. That's one  
7 possible reason; yes?

8 A Yes.

9 Q And the SOF conditions also coincided with the  
10 implementation of a new casino operation  
11 agreement that saw the province retain a higher  
12 proportion of revenue from high-bet limit table  
13 games than standard games; right?

14 A Yes. And that was a new -- that was new. Under  
15 the former OSA, operational services agreement,  
16 table games, standard table games were all  
17 treated the same in that the revenue split  
18 between the province and the service provider  
19 was equal for all of those games, and that's the  
20 way the new OSA was drafted initially. And then  
21 around the October, November 2017 time frame,  
22 Mr. Desmarais and Mr. Lightbody came to me -- I  
23 was responsible for overseeing the drafting of  
24 the new OSAs; they were all coming to term, so  
25 that's why we were doing a new one. We had been

1           working on it for about a year. They came to me  
2           and said that Minister Eby had directed that the  
3           commission be changed on the very high limit  
4           table games. So the way the contract was  
5           negotiated and written up to that point in  
6           time -- although not executed yet -- was that  
7           the province would receive 57.5 percent of table  
8           game revenue, and the service provider would  
9           receive 42.5. As I understood it from  
10          Mr. Lightbody and Mr. Desmarais was we were to  
11          change that and for salon play or very high end  
12          table play, the province's take of the revenue  
13          was to be increased. They wanted more of that  
14          revenue. It was to go from 57.5 to 60 percent  
15          and the service provider's revenue was to be  
16          reduced from 42.5 to 40 percent under the new  
17          contract. So the consequence of that, the point  
18          of that, is that created incentive for service  
19          providers to move away from salon play.

20          MR. SKWAROK: Mr. Commissioner, I've been advised  
21          that I have exhausted my 15 minutes, and I  
22          respectfully request another 15. Mr. Kroeker is  
23          in a unique position to give informed and  
24          insightful evidence regarding AML, especially at  
25          Great Canadian. We've heard some witnesses give

1 negative evidence, which in my respectful  
2 submission had varying degrees of credibility.  
3 This witness is in, as I say, a unique position  
4 to give informed evidence and I would  
5 respectfully request 15 more minutes.

6 THE COMMISSIONER: All right. If you can bring  
7 yourself within 10, I would appreciate it, but  
8 you've got 15.

9 MR. SKWAROK: Thank you.

10 Q Regarding the \$50,000 threshold, Mr. Kroeker,  
11 you say a number of things -- I'm starting at  
12 paragraph 85. One of them is that you found  
13 only 1.3 percent of the LCTs were -- should have  
14 been reported as UTFs; correct?

15 A That's correct.

16 Q And my learned friend for the province suggested  
17 that that may be so, but also that the number of  
18 under \$50,000 STRs was approximately 10 percent  
19 of all STRs as opposed to LCTs?

20 A Yes, if her math is correct, I accept that.

21 Q I'm going to ask you to do another math  
22 question, and that is that I put to you that the  
23 dollar value of the unreported STRs was well  
24 under 10 percent of the total STRs, and I say  
25 that because 90 percent of the STRs were filed

1 properly, and almost by definition they exceeded  
2 the \$50,000 total; correct?

3 A I don't have that information off the top of my  
4 head.

5 Q All right. Yeah. The events that were reviewed  
6 that led to the conclusions about the  
7 \$50,000 threshold, that was six years ago,  
8 wasn't it?

9 A Yes, 2015.

10 Q Have there been any recurrences of similar  
11 problems at Great Canadian?

12 A Not up to the time I left of which I'm aware.

13 Q At paragraph 85 of your affidavit you suggest  
14 the cause of the error was some form of  
15 confusion. That's my words paraphrasing your  
16 words. Is that fair?

17 A Yes. I had no direct knowledge of this  
18 incident -- or this circumstance until I was at  
19 BCLC. Having reviewed the documents that were  
20 available to me, the email strings that were  
21 there, it appeared to me that people were  
22 communicating in good faith but at cross  
23 purposes and a very regrettable understanding  
24 was taken away as a result.

25 Q Did you ever develop the opinion that anyone at

1                   Great Canadian was intentionally flaunting the  
2                   rules with respect to reporting STRs?

3           A     No.

4           Q     The LCTs relating to these SFTs were in fact  
5                   filed on time with FINTRAC; correct?

6           A     No. The STRs were late because they  
7                   were discovered -- yeah, the STRs were late, but  
8                   the LCTs were on time.

9           Q     That's right. I apologize if I said something  
10                  different. And ultimately the STRs were in fact  
11                  filed?

12          A     That's correct, yes.

13          Q     And the last series of questions I'm going to  
14                  ask you are about the MNP report. I won't take  
15                  you to them, but in your affidavit you make  
16                  reference to a number of criticisms of the MNP  
17                  report. Those criticisms are embodied at  
18                  paragraphs 122 and 123 of your affidavit. Some  
19                  of them.

20          A     I have that.

21          Q     And also exhibit 50, which is your email to  
22                  Mr. Lightbody setting out some concerns.

23          A     Okay. Do you want me to go to that exhibit?

24          Q     If it suits you, unless you're prepared to  
25                  accept my word on it.

1           A     I'd just like to have it in front of me so I  
2                    know. Thank you. I have it.

3           Q     And also there's some discussions about  
4                    shortcomings in the report in exhibit 51 at  
5                    various places, and that's the BCLC chart  
6                    response to the report of the recommendations?

7           A     Correct.

8           MR. SKWAROK: Madam Registrar, would you kindly  
9                    follow up the document BCLC000094.

10          THE COMMISSIONER: Is this one to be live streamed or  
11                    not, Mr. Skwarok?

12          MR. SKWAROK: I beg your pardon?

13          THE COMMISSIONER: Is this to be live streamed or  
14                    not.

15          MR. SKWAROK: I gave notice of it -- yes, I would  
16                    like it to be live screened, please.

17          THE COMMISSIONER: All right.

18          MR. SKWAROK:

19          Q     If I could take you to the third page, sir. And  
20                    this is entitled "Minister's Briefing Note to  
21                    the Honourable Michael de Jong." Have you had  
22                    an opportunity to read this document?

23          A     I have within the last couple weeks, yes.

24          Q     Does it embody the concerns that you ever raised  
25                    throughout your affidavit about the MNP report?



- 1           A     Yes, that would be fair.
- 2           Q     For example, in the third and fourth paragraphs  
3                   there's a commentary about how the MNP report  
4                   wasn't audited.
- 5           A     Yes, that comment is there, yes.
- 6           Q     That was one of your concerns. On the following  
7                   page under "Background," paragraph 2, there's a  
8                   reference to E&Y audit of BCLC, and it came out  
9                   with no findings of non-compliance with a  
10                  federal AML legislation?
- 11          A     Yes.
- 12          Q     And there was also a FINTRAC compliance  
13                  examination that came to essentially similar  
14                  conclusions that there was -- BCLC was in full  
15                  compliance with AML legislation with one  
16                  exception?
- 17          A     Yes. There was some minor exceptions, yes.
- 18          Q     Now, the dates of these two reports, the E&Y one  
19                  and the FINTRAC one covered the entire period  
20                  virtually of the MNP report, didn't it?
- 21          A     I believe there was a large degree of crossover.  
22                  There might have been a little bit of difference  
23                  in scope, but I think they were largely the  
24                  same.
- 25          Q     At the bottom paragraph there's a mention about

1                   what I will call corrupt data that's been  
2                   referred to.

3           A     Yes.

4           Q     If I could take you, please, to the first page  
5                   of this document, at 0000094.

6           A     You mean the title page to the information note?

7           Q     No.  It's -- the very first page is a series of  
8                   emails.

9           A     Oh, I see.  Yes, I have them.

10          Q     And they consist of an email that was delivered  
11                 to you from Mr. Alderson containing an email  
12                 from a Mr. Thompson?

13          A     Yes.

14          Q     Do you see that in?

15          A     I do.

16          Q     And who is Mr. Thompson?

17          A     Mr. Thompson is an employee of BCLC in the IT  
18                 department and he is the in-house expert on the  
19                 iTrak system.

20          Q     I won't take you through his email.  Is it fair  
21                 to characterize it as a suggestion that the data  
22                 used by MNP was corrupt?

23          A     Yes.  I think with three or four exceptions he  
24                 notes that when the data extraction was done,  
25                 the 300 and -- I believe it was 65 or somewhere

1                   about there -- files that they found were  
2                   incomplete LCTs, that data had been corrupted in  
3                   the extraction process for some reason.

4           Q        You pointed out these concerns to MNP and to ...

5           A        And to GPEB, yes, I did.

6           Q        And what was the response?

7           A        Well, I suggested a solution to confirm whether  
8                   we had it right or whether we were wrong.  And  
9                   that was to simply take a number of those  
10                  LCTs -- they're each individually numbered --  
11                  and compare them to the production database and  
12                  see if in fact that data was missing from them,  
13                  or if they were not comfortable working within  
14                  our system and they wanted to go to even, I  
15                  guess, perhaps a more authoritative data source  
16                  to go directly to FINTRAC with the LCT numbers  
17                  and ask them to look at them and determine  
18                  whether or not those forms were complete.  I  
19                  received a response that work was complete on  
20                  the audit and they would not entertain those  
21                  checks.

22           MR. SKWAROK:  Those are my questions, Mr. Kroeker.

23                    Thank you very much.

24           THE COMMISSIONER:  Thank you, Mr. Skwarok.

25                    I'll now call on Mr. DelBigio on behalf of

1 Paul Jin, who has been allocated 45 minutes.

2 **EXAMINATION BY MR. DELBIGIO:**

3 Q Mr. Kroeker are you able to hear me okay?

4 A I am, Mr. DelBigio.

5 THE COMMISSIONER: Sorry, Mr. DelBigio, just before  
6 we start.

7 Mr. Skwarok, did you want that exhibit  
8 marked as an exhibit or has it already been  
9 marked?

10 MR. SKWAROK: No, that was my omission.

11 THE COMMISSIONER: All right.

12 MR. SKWAROK: May I please have it marked. Thank  
13 you, sir.

14 THE COMMISSIONER: All right. Thank you.

15 THE REGISTRAR: That will be exhibit 496,  
16 Mr. Commissioner.

17 THE COMMISSIONER: Thank you.

18 **EXHIBIT 496: Email from Rob Kroeker re MNP**  
19 **Audit Investigations and AML Response, July 19**  
20 **2016**

21 THE COMMISSIONER: I'm sorry, Mr. DelBigio. Please  
22 carry on.

23 MR. DELBIGIO:

24 Q Mr. Kroeker, as you might have heard, I am just  
25 new to this, and I don't have access to your

1 documents and so I'm going to do the best I can  
2 here.

3 Just to begin by way of your background,  
4 there has been some testimony about -- that you  
5 were a police officer, and I think for 12 years  
6 or something like that; is that right?

7 A That's correct.

8 Q And just in a sentence or two, what kind of  
9 policing did you do?

10 A Started off a course in general duties with the  
11 RCMP, probably seven, eight years' experience  
12 that way. I did drug enforcement, mostly with  
13 street crime type enforcement, youth enforcement  
14 and I also worked on a number -- not a large  
15 number but a number of very serious crimes like  
16 murders.

17 Q Is that here in the province, in BC?

18 A In Alberta and BC.

19 Q Okay. And you are qualified as a lawyer and  
20 practiced as a lawyer. I think -- did you do  
21 some time with the Attorney General's office?

22 A Yes. Yes, in the civil forfeiture office.

23 Q And when I say "do time," I mean practice law.

24 A Yes.

25 Q So you worked at a lawyer in the civil

1 forfeiture office?

2 A You know, it would be more accurate to say I  
3 worked more as a file manager. I didn't go into  
4 court and litigate the files, but I was  
5 responsible for the overall conduct of the  
6 files.

7 Q And, again, just in a sentence or two, have you  
8 practiced law outside of that office?

9 A I have not.

10 Q Now, I have your affidavit, and I'm just going  
11 to ask you do you have that in front of you?

12 A I do, Mr. DelBigio.

13 Q And I'm going to begin at paragraph 1, which is  
14 where you provide evidence to the commission  
15 pursuant to a summons. Do you see that?

16 A I do.

17 Q And I'm just wanting to try to understand the  
18 process by which in between your receiving a  
19 summons and then you have sworn an affidavit.  
20 Did you participate in interviews with any of  
21 the people from the commission team?

22 A I did.

23 Q And approximately -- or maybe exactly, how many?

24 A Oh, it was one or two. I can't remember now.  
25 So much has transpired in the past so many

1 months. I believe it was two.

2 Q And I also appreciate that you've had a long  
3 couple of days. And how many of those lawyers  
4 were present during those interviews, "those  
5 lawyers" meaning the commission team lawyers?

6 A There were three people present. I believe they  
7 were all lawyers, but I don't know that.

8 Q Okay. And your own lawyer, of course, was  
9 present?

10 A Yes, that's correct.

11 Q And I'm not asking you for details, but through  
12 your summons did you also provide documents to  
13 the investigators of the commission?

14 A I don't believe so. Oh, sorry, I did. With one  
15 exception. I really have no documents to  
16 provide because they were documents of the  
17 corporation, BCLC, or GCGC. I did have personal  
18 journal notes that I provided, yes.

19 Q Okay. And you prepared an affidavit, and I want  
20 to be clear to you and to your lawyer so as to  
21 not cause concern. Any of my questions that I'm  
22 about to ask have nothing to do with any  
23 interactions that you had between you and your  
24 lawyer; okay?

25 A I understand.

1 Q Did any of the commission team see a draft of  
2 your affidavit before it was sworn?

3 A My understanding is that yes, they did.

4 Q And your affidavit refers to those things that  
5 it does. How was it decided what topics or  
6 issues you would address in your affidavit,  
7 meaning was it suggested to you by the team  
8 investigators or was that your choice?

9 MS. LATIMER: I apologize to interrupt my friend, but  
10 he's now twice referred to team investigators  
11 and I haven't heard this witness give evidence  
12 that he met with any investigators, so perhaps  
13 he could clarify what he means by that.

14 THE COMMISSIONER: All right. Mr. DelBigio --

15 MR. DELBIGIO: Yes, thank you. And maybe it doesn't  
16 need to be resolved now, but I was just looking  
17 at some of the language that's on the commission  
18 website with respect to investigations being  
19 conducted and summons powers used to advance  
20 investigations. And I can -- as I say, that's  
21 maybe not anything that we need to occupy time  
22 with at this moment.

23 Q Mr. Kroeker, I'll use the word the team, the  
24 team members or lawyers. Did they see drafts of  
25 the affidavit?



1           A     Yes.  That's my understanding.

2           Q     And how many drafts were there so far as you  
3                    know?

4           A     I'm in a difficult position because there was a  
5                    lot of to and fro between myself and my counsel  
6                    and I know you're not asking about that.  I can  
7                    say it was more than one.

8           Q     Okay.  Now, did the commission suggest contents  
9                    to your affidavit?

10          A     I'm not sure I would characterize it that way.  
11                   I'm really struggling here trying not to get  
12                    into conversations between myself and my  
13                    counsel.

14          Q     Yes.  And I emphasize that I don't want those.

15          A     How about I'll answer -- I think this will  
16                    assist you without getting us in trouble.  There  
17                    was a will-say prepared on the basis of my  
18                    interviews with the commission, and I made sure  
19                    that the areas that they covered were -- there  
20                    was responsive content in my affidavit.

21          Q     Your affidavit followed the interviews that you  
22                    had with them; correct?

23          A     Yes.

24          Q     And who drafted that will-say, you or them?

25          A     They did.

1           Q     Okay.  I haven't seen that.  When you were  
2                    conduct -- when you were being interviewed, were  
3                    you shown any documents by the commission team  
4                    members?

5           A     I don't believe so.

6           Q     When you were being engaged in interviews were  
7                    you shown any photographs?

8           A     No, I don't recall any photographs at all.

9           Q     Your affidavit -- and we'll take you to some of  
10                   the details, but just as you sit here, you  
11                   recall that your affidavit refers to Mr. Jin --

12          A     Yes.

13          Q     Right?

14          A     Yes, it does.

15          Q     Did the commission team members ask you about  
16                   Mr. Jin during those interviews?

17          A     I believe they did, but I can't say with  
18                   certainty, Mr. DelBigio.

19          Q     Okay.  And I guess what I'm wondering is when  
20                   references to Mr. Jin are in your affidavit is  
21                   that because you chose to put them in or because  
22                   it was suggested that it should be in?

23          A     I don't -- I would not say it was suggested.  I  
24                   would say Mr. Jin came up frequently in the  
25                   discussion of money laundering around casinos,

1                   and so he was -- I included that because of his  
2                   role as it was discussed.

3           Q        Okay. Now, again, I'm going to use a word here,  
4                   and again, I emphasize it is not as between you  
5                   and your lawyer; okay?

6           A        Okay.

7           Q        Do I understand that the commission team members  
8                   gave approval to your affidavit, the contents of  
9                   it?

10          A        That's not my understanding, and I would not  
11                  have gone along with something like that.

12          Q        Okay. Now, again, because I'm new to this, I  
13                  just want to try and set some framework just  
14                  before I dive into questions that relate to  
15                  Mr. Jin; okay? I understand that casinos  
16                  operated in a regulated environment, and what I  
17                  mean by that is an environment in which there  
18                  were laws that governed the way in which casinos  
19                  were required to operate. Is that a fair  
20                  general description?

21          A        Sure. Yes, it is.

22          Q        And in response to that regulation casinos so  
23                  far as you're familiar had what I would call  
24                  compliance regimes, and what I mean by that,  
25                  again just in a general way, are measures that

1                   they use to comply with the laws that regulated  
2                   them?

3           A     That's fair, yes.

4           Q     And I don't need to engage in issues about  
5                   whether those were adequate or inadequate or who  
6                   knew what or when, okay, so we're moving off of  
7                   that. But with respect to the compliance  
8                   regimes, I gather and I've heard questions asked  
9                   of you about, for example, observations or  
10                  photographs or surveillance, that sort of thing.

11          A     Yes.

12          Q     And those were part of a compliance regime; is  
13                  that right?

14          A     Surveillance is, yes.

15          Q     Now, you -- based upon your experience as a  
16                  lawyer and as a police officer and based upon --  
17                  I'm going to set that in contrast to your  
18                  experience working in a regulated environment  
19                  with a compliance regime in casinos; okay?

20          A     Yes.

21          Q     You understand based upon your experience that  
22                  firstly casinos did not do criminal  
23                  investigations; is that right? I mean, those --  
24                  do I understand that correctly that the measures  
25                  that were in place for compliance were not -- it

1                   was not a criminal investigation that the  
2                   casinos were conducting?

3           A       Yes.  Neither the service provider nor the  
4                   conduct and manage agent British Columbia  
5                   Lottery Corporation conducted criminal  
6                   investigations.

7           Q       Okay.  The observations, the surveillance, the  
8                   information that was conducted by casinos, was  
9                   that which was sufficient for a compliance  
10                  regime within the regulated environment; is that  
11                  right?

12          A       The intent was to capture that within a  
13                  regulated environment, yes.

14          Q       And you understand that in British Columbia the  
15                  criminal -- the process of criminal  
16                  investigation to charge and prosecution goes  
17                  like this:  police conduct a criminal  
18                  investigation and if they feel that there's  
19                  enough evidence, they might forward a file to  
20                  Crown for charge approval; right?

21          A       That's correct.

22          Q       In this province it's the Crown who approves  
23                  charges, not the police; right?

24          A       That is correct.

25          Q       And you understand just based upon your

1                   knowledge and experience that the Crown will  
2                   decide whether or not there's sufficient  
3                   evidence to charge based upon the evidence  
4                   provided to them; right?

5           A       Yes, I'm familiar with that process.

6           Q       And one consideration will just be the  
7                   sufficiency of evidence.  Another might be the  
8                   reliability of the evidence presented; right?

9           A       Yes.  And the public interest in proceeding.

10          Q       Right.  And in this province, then, if somebody  
11                   has or has not been charged and if somebody has  
12                   a -- let me rephrase, please.  Sorry.

13                   In British Columbia if somebody has a  
14                   question as to why somebody was or was not  
15                   charged, that's a question that would need to be  
16                   put to crown counsel; right?

17          A       Yes.

18          Q       Similarly in this province, if a person has been  
19                   charged and that charge was stayed by Crown, the  
20                   reasons for that would need to be put to Crown;  
21                   right?

22          A       Yes.

23          Q       Because of the way -- because the casinos were  
24                   not tasked -- well, let me back up a step.

25                   You understand through all of your

1                   experience that it's the *Criminal Code of Canada*  
2                   that defines proceeds of crime; right?

3           A     Correct.

4           Q     You understand that the statute -- that there is  
5                   a statutory definition for what substitutes the  
6                   proceeds of crime; right?

7           A     Yes.

8           Q     And you understand, again, based upon all that  
9                   you have done and all that you know, that there  
10                  is no criminal offence of loan sharking, but  
11                  there is a criminal offence of -- that refers to  
12                  criminal interest rates; right?

13          A     Yes.

14          Q     And you understand that while it might be --  
15                  that loan sharking is a -- is simply a phrase  
16                  that does not constitute a criminal offence?

17          A     Yes. It doesn't appear in any statute as a  
18                  criminal offence.

19          Q     And you understand that the criminal interest  
20                  rate offence refers to a -- quite a complicated  
21                  series of calculations that refer to -- and I'm  
22                  not testing you out on this, but just refer to  
23                  the way in which interest rates are calculated;  
24                  right?

25          A     Yes. And please don't ask me what it is. I

1 don't know off the top of my head.

2 Q It's long and complicated. I'm not going to ask  
3 you.

4 And you understand based upon that that if  
5 somebody were to, say, as between a borrower and  
6 a lender that a criminal -- that the interest  
7 rate violates a *Criminal Code* offence, really,  
8 that you would be required to know a lot about  
9 the circumstances, the terms of the loan, the  
10 terms of the interest rate, et cetera; right?

11 A Yeah, and period of time and so on and so forth,  
12 yes.

13 Q And that fell completely outside of what the  
14 casinos were tasked with examining for purposes  
15 of compliance, right?

16 A Yes, absolutely.

17 Q Similarly, proceeds of crime -- again, this is  
18 not going to be a test of you, but you know  
19 enough as you sit here at the moment that  
20 proceeds of crime refers to a benefit, advantage  
21 that drives from a designated offence; right?

22 A Yes.

23 Q And so for -- actually proceeds of crime, I  
24 understand that it's a phrase that gets tossed  
25 around in this commission, but really



1                   technically for -- in order to know whether  
2                   proceeds of crime exists, one would need to know  
3                   the source -- whether the funds come from one of  
4                   those designated offences; right?

5           A     Yes.

6           Q     And simply looking at a -- looking at a stack of  
7                   money might give you -- might give rise to a  
8                   suspicion, but that's different than a proof of  
9                   the criminal offence; right?

10          A     I would agree, yes.

11          Q     And, again, casinos were not tasked -- not  
12                   tasked with making criminal investigations into  
13                   whether something was criminal interest rate or  
14                   actually the proceeds of crime; right?

15          A     That's correct. Although I would like to say  
16                   that they were required to be sensitive to  
17                   indicators of proceeds of crime and raise  
18                   suspicion.

19          Q     And let me ask you about that because what  
20                   constitutes perhaps an indicator for purposes of  
21                   compliance might be quite different than what  
22                   constitutes evidence that might be admissible or  
23                   proof at a court of law; right?

24          A     Yes, that would be determined much later.

25          Q     And so, for example, a casino -- and be clear.

1 I'm just inquiring; I'm not being critical of  
2 your measures by any means, I'm just -- but what  
3 a casino might regard as a relevant indicator is  
4 up to the casino as operating within a  
5 compliance regime, which might be quite separate  
6 than what a police officer might regard as  
7 proof. There might be an overlap, but they  
8 might be indifferent?

9 A Yes. And I need to qualify that and say that  
10 it's not purely subjective. There are  
11 recognized indicators that are published by  
12 competent authorities.

13 Q Okay. Now, I talked to you about the difference  
14 or I asked you questions about the difference  
15 between a compliance regime and a prosecution  
16 regime, and this is, again, just by way of  
17 background before I turn to Mr. Jin so that you  
18 will understand the context in which I'm asking  
19 questions; okay?

20 A Yes.

21 Q I've looked at the interim report of this  
22 commission, and I'll just -- and, again, I'm not  
23 testing you on this, I'm just giving you my  
24 background; okay? And it says:

25 "The commission cannot allow its process

1                   to be transformed into an investigation of  
2                   specific offences alleged to have been  
3                   committed by specific persons. Doing so  
4                   would encroach on the exclusive  
5                   jurisdiction of the federal government to  
6                   enact legislation relating to criminal  
7                   law."

8                   So that's just a piece of background for you.  
9                   I'm not asking you whether that's correct or  
10                  incorrect or whether you agree. But here is  
11                  where -- again, this is where I start to turn to  
12                  Mr. Jin; okay?

13                  The interim report of this commission at  
14                  paragraph 55 -- or, I'm sorry, footnote 55 says:

15                  "Professor Schneider describes Vancouver  
16                  model as a moniker applied to the alleged  
17                  money laundering operation used by Paul  
18                  Jin and Silver International Investments."

19                  Have you seen the Schneider report, or do you  
20                  know what it's based upon?

21                  A     Yes, I've seen it, and I'm aware of his  
22                  testimony. My understanding is his testimony  
23                  was based almost exclusively on media reports.

24                  Q     Okay. And I suppose it is left to common sense  
25                  in part as to whether the media provide -- or a

1 particular report is accurate or inaccurate.

2 Fair comment?

3 A Yes.

4 Q But at footnote 100 -- and, again, this is not a  
5 test of you or asking whether you agree or  
6 disagree. It's just background. Footnote 100  
7 of the same interim report again refers to  
8 criminal allegations and it says:

9 "E-Pirate is the project name for a police  
10 investigation into significant money  
11 laundering operation allegedly being run  
12 by Paul Jin."

13 Now, do you know -- money laundering is also a  
14 criminal -- you understand based upon your  
15 experience money laundering is also a criminal  
16 offence as defined within the *Criminal Code*;  
17 correct?

18 A Yes.

19 Q This footnote which refers to a significant  
20 money laundering operation allegedly being run  
21 by Paul King Jin, refers to something called  
22 E-Pirate. Do you know what E-Pirate is?

23 A It's a police -- an investigation conducted by  
24 the police.

25 Q Have you ever seen any documents in relation to

1 E-Pirate?

2 A Not that I recall, no.

3 Q Do you know whether it gave rise to charges or  
4 not?

5 A I would be going by media reports only.

6 Q Okay. As you read, you know, based upon all of  
7 your experience in the world, if you read a  
8 sentence that says "significant money laundering  
9 operation allegedly being run by" and then  
10 individuals named, would you -- do you conclude  
11 that that is somebody was charged, or how do you  
12 interpret that based upon your experience?

13 A I don't know if I ever formed an opinion on  
14 that. It could be charged, but it sounds more  
15 like perhaps subject of a criminal  
16 investigation.

17 Q And I suppose if somebody wanted to know what is  
18 meant by that, whether that is accurate,  
19 inaccurate, strong evidence, weak evidence, one  
20 would first of all need to look at the E-Pirate  
21 report, right, based on your experience?

22 A That would be fair, I guess, yes.

23 Q And if there were charges in relation to that  
24 where the charges were dropped, that would be  
25 the prosecutor who would have to explain that;

1 right?

2 A Exactly, yes.

3 Q And similarly, if E-Pirate refers to a criminal  
4 investigation in which a person was not charged,  
5 based upon everything that you know, one  
6 possible reason for a person being not charged  
7 is that there's just simply no evidence or  
8 insufficient evidence; right?

9 A That would be a reasonable speculation, but to  
10 your earlier point it would really be up to the  
11 Crown to explain why that circumstance came to  
12 be as well.

13 Q And absent testimony from a Crown, really if a  
14 person is reading footnote 100, there's not much  
15 further insight that a reader would have without  
16 reading E-Pirate or testimony from a prosecutor  
17 as to what's that's all about; right?

18 A Well, I don't know that I can testify to what  
19 others would take from that.

20 Q Okay. Fair enough. When you were answering  
21 questions of Ms. Latimer, you were asked how  
22 were you aware of Mr. Jin and you said a  
23 briefing of director of surveillance or  
24 security.

25 A Yes.

1           Q     And so it's one of those individuals who simply  
2                    mentioned the name Mr. Jin to you; is that  
3                    right?

4           A     No. It was a briefing around circumstances.

5           Q     Okay. And, again, here's where I'm at a  
6                    disadvantage because I don't have documents  
7                    attached to your affidavit. Do some of those  
8                    documents refer to, for example, Mr. Jin?

9           A     I can't recall if the exhibits -- yes, he is  
10                   mentioned in at least one or two of the  
11                   exhibits, yes.

12          Q     Okay. So I will have to postpone questions in  
13                   relation to that, pending other matters.

14                         Ms. Latimer asked you a question and --  
15                    about Mr. Jin about loan sharking or making  
16                    loans, and you said it's difficult to say both.  
17                    And perhaps both. And I realize that you've  
18                    been asked a lot of questions over the past two  
19                    days, but do you recall that question being  
20                    asked and giving that answer?

21          A     I do. I think that's fair, yes.

22          Q     And first of all, I go back to the word "loan  
23                    shark" that it has no meaning in law; right?

24          A     And that's -- in my recollection that's why I  
25                   hesitated because I don't like the term for the

1 reasons you've pointed out.

2 Q You would recommend that that term never be used  
3 again if a person is wanting to be precise?

4 A In talking about whether or not a criminal  
5 offence has been committed, yes.

6 Q It's a -- because it's a term that does not lend  
7 itself to agreed upon meaning; right?

8 A Fair enough, yes.

9 Q Now, Mr. McFee -- so, again, I'm having to --  
10 Mr. McFee was asking you questions this morning,  
11 and he used an interesting phrase and he used  
12 the word "cash facilitators." Do you recall  
13 that?

14 A I do.

15 Q And that's a neutral phrase to describe, I  
16 suppose, what, one person lending cash or  
17 providing cash to another; is that right?

18 A I would say it's providing cash to another  
19 person, the terms of which are unknown to  
20 others.

21 Q Terms of which are unknown and the source of the  
22 cash unknown; right?

23 A Yes.

24 Q And, again, one might conclude, draw certain  
25 conclusions from observations, but simply an



1 observation with respect to an amount of cash  
2 is -- doesn't give you -- for purposes of law  
3 doesn't give you a lot to go on for purposes of  
4 how a casino conducts itself might be  
5 sufficient; right?

6 A Yes. It certainly can raise suspicion in the  
7 regulatory context, yes.

8 Q Again, Ms. Latimer asked you a question about --  
9 that you were informed about Mr. Jin seen  
10 lending money to people. And I think that there  
11 was reference to a document, but let me say  
12 this: you understand -- I mean, the  
13 surveillance that you would have is simply if --  
14 would be one person handing money to another;  
15 right?

16 A Yes.

17 Q And you understand based upon all of your  
18 knowledge and experience that the word "lending"  
19 implies certain arrangements; right?

20 A Yes.

21 Q And so if there is a surveillance that was  
22 prepared by a casino, what it would be is one  
23 person handing money, but the surveillance  
24 couldn't determine that it is lending money;  
25 fair?

1           A     Fair enough.  The terms of the transaction or  
2                   the exchange are unknown.

3           Q     Now, Ms. Latimer also asked you about a report  
4                   that said a person received cash from Mr. Jin.  
5                   I'm going to be careful about -- does that  
6                   report refer to who authored it, when the  
7                   circumstances under observations were made and  
8                   such things?

9           A     Sorry, the very first part of your question, a  
10                  report?

11          Q     Yeah, Ms. Latimer asked you a question about a  
12                  report which suggested that a person received  
13                  cash from Mr. Jin.  I don't have the report, so  
14                  I can't assist you more than that.

15          A     Yeah, it would be a report that would have been  
16                  provided emanating from a surveillance and then  
17                  probably added to.

18          Q     Okay.  You were asked also about a 2017 arrest  
19                  called E-national?

20          A     Investigation?  Yes.

21          Q     Well, it was an arrest and you said that names  
22                  were not shared?

23          A     Yes.  Yes.  We were told about an investigation  
24                  that resulted in nine arrests and the names were  
25                  not ultimately provided to us.

1           Q     And do you know whether there were ever charges  
2                    arising from that?

3           A     I do not.

4           Q     And, again, if there were charges -- well, if  
5                    there were not charges that would be something  
6                    and somebody wanted to know why, that would be  
7                    between one possibility is the police never  
8                    referred it to Crown; right?

9           A     That's possible, yes.

10          Q     The other possibility is the Crown received it  
11                   and said there's not enough here?

12          A     Yes, that's a second possibility.

13          Q     And so if somebody wanted to know about that,  
14                   somebody would have to either speak to the  
15                   police or the Crown; right?

16          A     That's correct.

17          Q     Now, I'm going to ask you a question. I'm going  
18                   to ask you to pause before you answer; okay?  
19                   But the question is in relation to what you call  
20                   the link analysis.

21          A     Yes.

22          Q     And that's some sort of a diagram or something?

23          A     It's an intelligence diagram, yes.

24          Q     Okay. My question is does that diagram contain  
25                   Mr. Jin's name. And just pause in case anybody

1           has any concerns over that question.

2           MS. LATIMER: Mr. Commissioner, I thank my friend for  
3           asking the witness to pause. I think given that  
4           my friend hasn't been entitled to see that  
5           document yet, we shouldn't probably discuss the  
6           contents of the document until that issue is  
7           resolved.

8           MR. DELBIGIO: Okay. Thank you.

9           THE COMMISSIONER: Are you satisfied with that,  
10          Mr. DelBigio? It doesn't mean that once the  
11          issue is resolved you won't be able to probe  
12          that.

13          MR. DELBIGIO: Thank you.

14          Q     And I just have a few more questions, but in  
15          relation to that document, sir, who authored  
16          that document?

17          A     An analyst at the British Columbia Lottery  
18          Corporation, a crime analyst by the name of Brad  
19          Rudnicki.

20          Q     And as I understood your answer to Ms. Latimer,  
21          you said the sources of information were mainly  
22          open source, and were there any -- based upon  
23          what you know was there anything that was not  
24          open source that was -- that the analyst considered?

25          A     There could be. I don't know that for sure.

- 1 Q Okay. The analyst would have to be asked?
- 2 A Yes.
- 3 Q And the reliability of that document depends  
4 upon two things, one the reliability of the  
5 sources; correct?
- 6 A Yes.
- 7 Q And the second is the reliability of the  
8 analyst's interpretation of the information and  
9 those sources; fair?
- 10 A Fair. There would be some interpretation, but  
11 some of it is -- for instance, I'll use land  
12 titles, because I think that's fairly neutral.  
13 Either a person is registered or they're not.  
14 So some is open to interpretation; some is not.
- 15 Q Okay. I have one more question, and then,  
16 again, other issues we might visit again. But  
17 Ms. Latimer took you through various parts of  
18 your affidavit that refer to your dealings with  
19 elected officials in this province. Do you  
20 recall that?
- 21 A Yes. Many of them were indirect, but yes.
- 22 Q But some of them were direct?
- 23 A Yes.
- 24 Q And is it fair to say just based upon your  
25 experience that you were comfortable in

1                   interacting with elected officials; you did so  
2                   with the civil forfeiture, and it's been part of  
3                   your career from time to time?

4           A        Oh, yes, that's true.

5           Q        Now, here is where I'm going to leave off. You  
6                   concluded your testimony with Ms. Latimer and  
7                   you said this matter became -- and your words  
8                   were "politically charged."

9           A        That's my view.

10          Q        And my question is what do you mean?

11          A        I mean that in my view it received an inordinate  
12                   amount of attention from certain politicians,  
13                   and there was enormous political back and forth  
14                   between two political parties in particular, and  
15                   it was used to criticize, by one to criticize  
16                   the other, allegations on what should and  
17                   shouldn't have been done and the extent to which  
18                   matters were dealt with or not dealt with.

19          Q        And I'm just about done. It's not perhaps  
20                   necessary to name anybody by name, but did you  
21                   follow the circumstances under which some  
22                   elected individuals were calling for this  
23                   commission to take place?

24          A        Yes. It was hard not -- it was hard to avoid  
25                   it.



1 is resumed. Mr. Commissioner.

2 THE COMMISSIONER: Thank you, Madam Registrar. Yes,

3 Ms. Henein.

4 MS. HENEIN: Thank you, Commissioner.

5 **EXAMINATION BY MS. HENEIN:**

6 Q Mr. Kroeker, I want to ask you for some  
7 clarification regarding a series of questions  
8 that have been put to you. Do you recall being  
9 asked about the E&Y report?

10 A Yes.

11 Q Today. All right. And you recall that counsel  
12 put to you that the E&Y report did not address  
13 concerns raised by the Vancouver model. Do you  
14 recall that question?

15 A I do.

16 Q Okay. The E&Y report was commissioned when? Do  
17 you recall?

18 A Yeah. On September 29th, 2017.

19 Q Okay. And the incident or the issue that caused  
20 the commissioning of the E&Y report, what was  
21 that?

22 A That was initially a media report that alleged  
23 that casino customers were on a systematic basis  
24 bringing in bags of cash into River Rock Casino  
25 in particular, but other casinos, playing --



1                    buying in, playing notionally or not playing at  
2                    all and then immediately getting a cheque, which  
3                    effectively laundered their money.

4            Q        Okay. So the media report related to  
5                    effectively laundering directly through the  
6                    casino, bringing in cash and taking it out in  
7                    cheques; right?

8            A        Yes.

9            Q        And that is not the Vancouver model; right?

10          A        Not as I understand it, yes, that's correct.

11          Q        Okay. So am I right that the E&Y report was not  
12                    looking at the Vancouver model but this other  
13                    type of money laundering that was raised in the  
14                    media reports?

15          A        Yes. That was its exact purpose.

16          Q        Okay. And the result of the E&Y report in  
17                    focusing on that type of money laundering, which  
18                    is a cash for cheque effectively, a traditional  
19                    type of money laundering, what was the  
20                    conclusion of that report in summary?

21          A        That it did not occur.

22          Q        Okay. And Mr. McFee asked you questions about  
23                    the sourced-cash conditions program. Do you  
24                    recall being asked questions about that?

25          A        I do.

1           Q     Okay.  And how, if at all, does the sourced-cash  
2                    conditions program relate to the Vancouver model  
3                    of laundering proceeds?

4           A     It would help defend against proceeds being  
5                    brought in.  The more that you know about the  
6                    source of the funds, if you know that the  
7                    customer can't source them to their bank account  
8                    or to a financial -- a legitimate financial  
9                    institution or some other legitimate  
10                  explanation, it would help defend against that.  
11                  It's by no means foolproof, but it is of  
12                  assistance.

13          Q     All right.  So that -- is it fair to say that  
14                    that type of program, focusing on source of  
15                    funds, assists on dealing with the type of  
16                    activity or illegal activity that the Vancouver  
17                    model raises?

18          A     Yes.

19          Q     Okay.  So you've get the E&Y report dealing with  
20                    what I'm going to call the traditional type of  
21                    money laundering, cleaning your money through  
22                    the casino, and you've got the Vancouver model  
23                    and the sourced-cash conditions program deals  
24                    with that issue to an extent?

25          A     Yes, it helps, yes.

1           Q     And how long had you been advocating for source  
2                   of cash programs to be expanded.

3           A     When I was at BCLC?

4           Q     Yes.

5           A     First day there I set it up.

6           Q     All right.  And I'm going to come to your 2011  
7                   report, but even prior to coming to BCLC, had  
8                   you been focused or concerned about source of  
9                   cash programs as being an effective way of at  
10                  least addressing some of the problems raised by  
11                  the Vancouver model?

12          A     Yes.  As more and more cash was coming in, and  
13                  we were not seeing evidence of -- clear evidence  
14                  of police investigations, and again, I know this  
15                  is a point of contention -- we're not saying  
16                  there weren't, but we weren't seeing it so we  
17                  didn't have confidence they were occurring --  
18                  Mr. Desmarais and I started discussing what  
19                  needed to be done, and he started off with the  
20                  source of funds interviews for some of the very  
21                  top-end players and that would have been in the  
22                  latter part of 2014.

23          Q     Okay.  So just to finish up on this point,  
24                  although it was put to you that the E&Y report  
25                  did not focus on the Vancouver model, is it fair

1                   to say you were addressing concerns raised by  
2                   the Vancouver model at the same time?

3           A     Yes.

4           Q     Okay. You were asked some questions about a  
5                   document -- and for the interest of time I'm  
6                   just going to identify what the document is. If  
7                   you need us to pull it up or, Mr. Commissioner,  
8                   if you need me to pull it up I'll stop and do  
9                   that. But because you've seen these documents  
10                  recently, I'm assuming you do recall them. So  
11                  the document I want to refer you to is a  
12                  document that the province took you to dealing  
13                  with an iTrak chart that showed what appeared to  
14                  be surveillance conducting live monitoring. Do  
15                  you recall that chart being put to you?

16          A     I do.

17          Q     Okay. And you said in response to the question  
18                  of whether or not there is live monitoring  
19                  occurring that there were only six to eight  
20                  operators and about 1,400 cameras?

21          A     At River Rock, yes, that's correct.

22          Q     At River Rock. Okay. So let me just  
23                  understand, then, prior to you changing the  
24                  policy and instituting live monitoring, how did  
25                  the monitoring work?

1           A     There was --

2           Q     How could eight people follow 1,400 cameras?

3           A     They couldn't.  And even after the policy they

4                 couldn't.  So they select which cameras they

5                 want to watch based on what's happening on the

6                 floor.  So what we said to them was before these

7                 large cash transactions could be completed they

8                 had to either be live monitoring or they had to

9                 complete a review of the video prior to the

10                transaction being completed, which would

11                hopefully catch the cash being brought in.

12          Q     Okay.  So am I right, then, that at the time you

13                 respond to the MNP report, your understanding of

14                 live monitoring before the large cash

15                 transaction occurs is that it is not occurring?

16          A     It may have been occurring, but what wasn't

17                 happening for sure was they weren't either live

18                 monitoring or doing the lookback prior to the

19                 transaction, yep.

20          Q     All right.  And after the MNP report, explain to

21                 us the policy you put in place on monitoring

22                 that now changes the way things are done.

23          A     So before, the expectation was surveillance

24                 would hopefully catch this.  It was clear from

25                 our own work and then which was confirmed by

1 GPEB's work that that wasn't being as effective  
2 as it should be, and so we said that it wasn't  
3 optional, you couldn't let the transaction  
4 proceed unless you had either live monitored it  
5 or done a review prior to accepting the cash and  
6 play beginning. And we still had some slippage.  
7 You'll see that I think there was four or five  
8 cases after that policy was changed, but then by  
9 the end of the year those cases disappeared  
10 completely.

11 Q Okay. So your understanding, then, is the  
12 change in the policy meant that either live  
13 monitoring or the lookback had to occur before  
14 the large cash transaction was accepted; is that  
15 right?

16 A That's correct.

17 Q Okay. I want to go back to some questions that  
18 were put to you by commission counsel, and if we  
19 can start by looking back at your 2011 report;  
20 okay?

21 A Yes.

22 Q One of the things that you responded to in -- a  
23 question put to you by commission counsel was  
24 that at the time of this report, 2011, it was  
25 "early days" in terms of thinking about money

1                   laundrying processes and AML techniques?

2           A       Particularly in regard to nonfinancial  
3                   institutions and reporting entities like  
4                   casinos.

5           Q       Okay. Can you just explain to me why you  
6                   characterize it as early days in 2011?

7           A       Certainly. So while FINTRAC came into legal  
8                   existence in 2000, it really took them about, in  
9                   my estimation, five years to be really up and  
10                  running and effective, and they were focused,  
11                  then, primarily on financial institutions  
12                  because that's -- it was international in nature  
13                  and that's where their real worry was. And as  
14                  that all came on stream, then they started  
15                  looking more at other reporting entities that  
16                  weren't FIs, like casinos, money service  
17                  businesses, jewellers and that type of thing.  
18                  And so the programs in those sectors really  
19                  started to be built out in the late, early --  
20                  2009/10, and then it accelerated from there.  
21                  And that's why -- and even looking at the  
22                  documentation, you see that the focus at that  
23                  point in time from the FATF and from FINTRAC is  
24                  really on making sure there's actually a  
25                  program, they're capturing identification

1 properly, they're capturing sufficient detail on  
2 employment, and that employment reconciles or  
3 matches up with the transactions being  
4 conducted. It's sort of foundational stuff.  
5 And then as time goes on and those things get  
6 nailed down and other risks are identified, you  
7 see the programs evolve more, so --

8 Q Okay. So --

9 A It's not like you can turn a switch on and have  
10 a fully formed complete program instantly.

11 Q Okay. So 2009 and 2010 you say the AML  
12 programs, particularly as you're dealing with  
13 nonfinancial institutions, are beginning to  
14 become more formed; is that fair?

15 A Yes.

16 Q All right. But even then, and so this is just  
17 around the time you're going to write your  
18 report, the focus is [indiscernible] if I  
19 understand what you're saying is really  
20 reconciling the source of wealth. In other  
21 words if someone came in and had a huge amount  
22 of cash and you say well, look, what do you do  
23 for a living and they said, I'm unemployed,  
24 that's a flag; right?

25 A Exactly, yes.



1           Q     But what you weren't doing is looking at how are  
2                    you transacting those funds; is it by a bank  
3                    draft? Is it in 20s? Is it in -- the nature of  
4                    the cash. Is it fair to say that in '09, '10,  
5                    '11 in these early days that's not really the  
6                    thinking and the focus of AML?

7           A     Yes. And, you know, I just thought of a really  
8                    good example is 2014 FINTRAC brought in new  
9                    requirements that reporting entities of casinos  
10                   had to engage in what was called ongoing  
11                   monitoring. So before it was really just  
12                   focused on single transactions and as the regime  
13                   was evolving and the risks were appreciated,  
14                   they then said, that's not good enough; what we  
15                   need you to do for us is look at the player in  
16                   totality, so you have to monitor not just their  
17                   individual transactions, but their circumstances  
18                   in total, how they transact over time and all of  
19                   their interactions with you. So that's a good  
20                   example of how the program -- and that continues  
21                   to this day.

22          Q     Okay. In terms of -- just to sort of round this  
23                    out a little bit, you know, as we move forward  
24                    beyond 2011 and we're in 2014 and '15 and we're  
25                    a decade beyond this, would you say that the

1                   knowledge in terms of AML has -- in terms of how  
2                   to manage players has remained the same or has  
3                   changed or improved? How would you characterize  
4                   it?

5           A        I would say it's much more sophisticated now.

6           Q        And in terms of the technology available to you  
7                   to assist in AML programs, is that the same as  
8                   what was available back in 2011, or has that  
9                   changed?

10          A        Yeah, there was virtually nothing for the  
11                   nonfinancial sector back in 2011 that I was  
12                   aware of. It's changing. It's still sparse on  
13                   the nonfinancial side, but it's coming along.

14          Q        Okay. So that's still an area that has a lot of  
15                   growth potential; is that fair?

16          A        Yes. Yes.

17          Q        Okay. And in terms of your understanding, and  
18                   I'm not talking about you personally but what  
19                   you understood in the industry where you've  
20                   worked for quite some time on compliance, did  
21                   your understanding and knowledge change or  
22                   remain the same in terms of how people actual  
23                   launder money through casinos?

24          A        It changed. You know, again, it got more  
25                   sophisticated. You see different ways that

1           people can launder. And also on the other side,  
2           you know, you come to understand things like  
3           even the efficiency of bill receptors on slot  
4           machines, they're somewhat slow and awkward to  
5           use and they spit bills back a lot. So those  
6           things even provide some sort of -- they provide  
7           a bit of a barrier to money laundering. So you  
8           just -- all these new data points come up and  
9           it's a continual growth process.

10          Q    Okay. And the last question on this point in  
11           terms of the ongoing development of AML, did you  
12           know back in 2011 that there would be regional  
13           differences in terms of how criminals would  
14           launder money through casinos or unload proceeds  
15           of crime?

16          A    No, I don't think that was top of mind.

17          Q    All right. So one of the questions or series of  
18           questions that the commission counsel put to you  
19           was that your report of 2011 did not recommend  
20           that \$20 bill denominations were either capped  
21           or limited at casinos. Do you recall those  
22           questions?

23          A    I do.

24          Q    Okay. And that's in fact true. Your report  
25           does not recommend that that denomination in

1 particular, \$20 bills, somehow be limited or  
2 capped; right?

3 A That's right.

4 Q Okay. And just before we come to the questions  
5 you were asked about Mr. Vander Graaf of GPEB,  
6 let me just ask you your understanding of GPEB's  
7 authority as you dealt with them. And I'm not  
8 asking you about police investigations and  
9 whether they have police cars and whether they  
10 have guns, but I'm going to ask you some very  
11 basic things. You know that GPEB is a  
12 regulator; right?

13 A That's correct.

14 Q All right. That's its function. There's no  
15 question in your mind. They may not be police  
16 officers, we can leave that for debate, but  
17 regulators they are; right?

18 A Absolutely, yes.

19 Q All right. And you know that under section 56  
20 of the *Gaming Control Act*, one of the things  
21 that GPEB has the discretion to do is to attach  
22 conditions to a service provider; right?

23 A Yes. I'm well aware of that.

24 Q Okay. And if the conditions are not complied  
25 with, GPEB has the regulatory authority to

1                   revoke that, that service provider's licence;  
2                   right?

3           A       Yes. There's a range of sanctions up to  
4                   revocation.

5           Q       All right. And at the time you wrote your 2011  
6                   report to the time that you ended your  
7                   employment with BCLC, do you know if GPEB ever  
8                   attached a term or condition on registration  
9                   limiting the number of 20s that a service  
10                  provider could --

11          A       I've never seen anything like that.

12          Q       Okay. Well, what about there, then: can you  
13                  help me out with whether you're familiar with  
14                  the authority of GPEB under section 28(1) of the  
15                  *Gaming Control Act* to issue directives. Are you  
16                  aware that the General Manager of GPEB can issue  
17                  directives?

18          A       I am.

19          Q       All right. Who are the directives directed to?  
20                  Are they directed to members of the population  
21                  or are they directed to BCLC?

22          A       BCLC.

23          Q       Okay. And in 2011 when you did your report, you  
24                  were asked questions about the fact that  
25                  Mr. Vander Graaf had recommended to you that

1 GPEB felt that 20s should be limited; right?

2 A That's correct.

3 Q All right. Did in 2011 GPEB ever issue a policy  
4 or a directive under the regulatory authority to  
5 limit or constrain or require the documentation  
6 of \$20 bills?

7 A Not that I'm aware of.

8 Q All right. From 2012 to 2015 when you were at  
9 GCGC, did GPEB ever issue a policy limiting the  
10 use of \$20 bills at that time?

11 A Not that I'm aware of.

12 Q All right. Well, how about from 2015 to 2018  
13 when you're at BCLC, did GPEB ever issue a  
14 policy limiting the use of \$20 bills?

15 A No.

16 Q All right. So up until today's date  
17 notwithstanding the questions that commission  
18 counsel put to you about the fact that you don't  
19 reference it in your 2011 report, are you aware  
20 of any policy at all that's been issued by GPEB  
21 addressing the \$20 bill issue?

22 A No, I'm not.

23 Q Okay. What about the minister? I understand  
24 that under the gaming legislation the minister  
25 can issue written directives to a lottery

1                   corporation on matters of general policy. Are  
2                   you aware of that?

3           A     I am.

4           Q     Did the minister ever issue a policy or a  
5                   directive that set a cash limit or limits on  
6                   \$20 denominations to your knowledge?

7           A     No.

8           Q     All right. You've been asked about Dr. German's  
9                   recommendations. Did Dr. German's  
10                  recommendations include limiting the use of  
11                  \$20 bills or any other denomination?

12          A     No.

13          Q     Did Dr. German recommend any cash cap or any  
14                  denomination cap whatsoever?

15          A     No. He recommended the opposite, actually.

16          Q     Okay. So am I right to say that the very thing  
17                  that you did not recommend in 2012 or '11, a  
18                  decade ago, a decade later has never been  
19                  recommended by the minister, by the regulator or  
20                  by the expert that the minister hired to give  
21                  that report?

22          A     That's correct.

23          Q     All right. Did FINTRAC ever advise BCLC to your  
24                  knowledge that they should implement a cap on  
25                  cash or on certain denominations?

1           A     No, they didn't.

2           Q     All right. Now, the recommendations that you  
3                 did make in your 2011 report included  
4                 scrutinizing all buy-ins for indicators of  
5                 suspicion whether or not the patron was known to  
6                 BCLC or the service provider; right?

7           A     Correct.

8           Q     And I want to focus on this point, and it's one  
9                 that you raised in a number of the questions  
10                that were put to you, and that was you  
11                recommended allowing cash-outs to be paid by  
12                cheque, which reduces the cash churn and overall  
13                cash in the system. What was your thinking  
14                behind even at the inception of AML protocols  
15                that back even in 2011 your view was that there  
16                should be less cash running through the casinos?

17          A     Yeah. Yes. So I know from my experience at  
18                 civil forfeiture, so to successfully pursue the  
19                 proceeds of money laundering, you would often  
20                 want to follow the trail. And if cash simply  
21                 comes into a casino and goes back out in cash,  
22                 there's no trail to follow. If a cheque is  
23                 granted, yes, there is a risk that you're  
24                 allowing some placement. In my view, the  
25                 trade-off is you then get a trail into the



1 financial system because the cheque can only be  
2 issued to the player. So you now are able to  
3 put that wealth in their hand. We actually had  
4 one case where the police had seized around just  
5 under \$400,000 in cash. And we had lined up on  
6 that as part of the case, and that part failed  
7 when at discovery the defendant said that, the  
8 money was loaned to me by my uncle to go gamble;  
9 I went and gambled, I won more, put it back in a  
10 tin and I gave it back to him. Had he been  
11 written a cheque, I do not think that defence  
12 would have been successful to him because we  
13 would have been able to trace the money through  
14 the financial system. And so there has to be  
15 appropriate safeguards in place, but I think  
16 it's a step forward.

17 Q But why was it a cash-only business?

18 A I don't know why that policy was implemented.

19 Q What was the policy? Who implemented the policy  
20 that it's cash only?

21 A The government did. The government of the day.

22 Q The government, who I gather when you were there  
23 were aware of money laundering concerns,  
24 implemented a cash-only policy at casinos?

25 A My understanding is from inception in 1998 when

1                   the casino commercial gaming became something  
2                   provinces could offer, the government of the day  
3                   took the decision that casinos would be cash  
4                   only.

5           Q       All right. And notwithstanding that you're in  
6                   government in your 2011 report you say we've got  
7                   to try to move away from cash?

8           A       Yes.

9           Q       Okay. The commission counsel put to you  
10                   questions about the tools available to GPEB  
11                   investigators. Do you recall that she asked you  
12                   whether or not you knew if GPEB investigators  
13                   had a police car?

14          A       Yes.

15          Q       Do you recall that question?

16          A       I do.

17          Q       And do you recall her asking you whether they  
18                   carried weapons?

19          A       Yes.

20          Q       All right. And your answer was they do not  
21                   carry guns?

22          A       To the best of my understanding, yes.

23          Q       Okay. Can I ask you this: does GPEB have  
24                   investigators?

25          A       Yes, they do.

- 1 Q Do you know how many they would have, roughly?
- 2 A I don't. It's somewhere probably between 12 and
- 3 30.
- 4 Q 12 and 30, okay. So presumably -- I take it you
- 5 would agree with me the investigators who don't
- 6 have guns and police cars are there to
- 7 investigate something?
- 8 A Yes.
- 9 Q Okay. To your knowledge did GPEB investigators
- 10 ever speak to players about source of funds?
- 11 A The only one I'm aware of is from testimony that
- 12 I heard from an earlier witness who is based in
- 13 Kelowna --
- 14 Q No, I'm not interested in another witness's
- 15 knowledge; I'm interested in --
- 16 A That's the only time I heard of that.
- 17 Q No, but in -- I mean, you've been in GCGC, you
- 18 were at BCLC, you've been involved in this
- 19 industry for such a long time. Are you saying
- 20 that in the -- all the time that you were there
- 21 you were never aware of a single GPEB
- 22 investigator speaking to a player about their
- 23 source of funds?
- 24 A That's my understanding, yes.
- 25 Q Does that require a gun, to your knowledge?

1           A     I don't think so, no.

2           Q     Okay. Do your employees who speak to players  
3                    about source of funds carry weapons to do that?

4           A     They do not.

5           Q     Okay. Did they try to arrange, to your  
6                    knowledge, the GPEB investigators, any  
7                    interviews with high-level patrons to discuss  
8                    source of funds with them?

9           A     No.

10          Q     Did they ever issue warnings to VIP players  
11                    buying in with large amounts of cash about their  
12                    source of cash? Was there any type of activity  
13                    in that nature?

14          A     I'm not aware of that ever occurring.

15          Q     How about coming to the casinos, would the  
16                    investigators come to the casinos at peak hours,  
17                    for example, to monitor what was happening with  
18                    large cash transactions?

19          A     I don't believe so. I'm not aware of that ever  
20                    occurring. Peak hours would have been Thursday  
21                    through Sunday early evening until late in the  
22                    morning and I don't believe GPEB worked outside  
23                    of Monday to Friday 9:00 to 5:00 hours.

24          Q     Sorry, GPEB only worked 9:00 to 5:00?

25          A     That's my understanding, yeah.

1           Q     So they would never monitor casinos at their  
2                    sort of busiest time periods?

3           A     That's my understanding. I'm not aware of an  
4                    investigator ever being in a casino during peak  
5                    hours.

6           Q     Did they ever try to ensure there was sort of a  
7                    regulator presence, if I can put it that way, at  
8                    casinos?

9           A     Not that I'm aware of.

10          Q     Did they ever try to seize suspicious cash?

11          A     Not that I'm aware of.

12          Q     Did they ever try to chat with your  
13                    investigators and take a look at your videos on  
14                    a frequent basis to see what's actually going  
15                    on?

16          A     That did occur to some extent. My understanding  
17                    there was reasonable communication but at the  
18                    investigator level.

19          Q     And how would that communication go? Would it  
20                    be your investigators to GPEB?

21          A     Yes. Or them coming in and asking about a  
22                    particular -- my experience was it would  
23                    normally be in response to a Section 86 Report  
24                    or something we provided to them.

25          Q     But was there a bit of a standing, sort of a

1 standing supervision, or ...

2 A No, there wasn't.

3 Q Okay. To your knowledge currently does GPEB  
4 conduct investigations?

5 A Not that I'm aware of. Perhaps some regulatory  
6 investigations but I'm not aware of any criminal  
7 investigations.

8 Q Okay. I want to ask you about the MNP report  
9 that was put to you by commission counsel, and  
10 in particular you were taken to  
11 recommendation 5.69. Do you recall that?

12 A Yes.

13 Q And I want to take you to a recommendation that  
14 counsel did not take you to that was related to  
15 the questions. It's exhibit number 27.

16 And I am going to ask, Madam Registrar, that  
17 if you could pull that up. Exhibit 27, page  
18 [indiscernible] of the commission exhibits. Not  
19 of his affidavit, Madam Registrar. It's of the  
20 commission exhibits. The MNR report, sorry.

21 THE REGISTRAR: Sorry.

22 MS. HENEIN: MNP report, sorry. Thank you very much.

23 And I'm going to ask you to -- if you could,  
24 Madam Registrar, go to page 9 of that report.

25 And I'm asking you to pull up 4.2. Thank you

1                   very much. That's it.

2           Q       So, Mr. Kroeker, at the top there of the summary  
3                   of findings and recommendations, do you see  
4                   there there's a heading called "GPEB"?

5           A       Yes.

6           Q       All right. And then there are four paragraphs  
7                   that set out recommendations being made to GPEB?

8           A       Yes.

9           Q       All right. And can you take a look at  
10                  recommendation 4.2. Do you see there where it  
11                  says:

12                         "GPEB should consider implementing a  
13                         policy requirement that service providers  
14                         refuse unsourced cash deposits exceeding  
15                         an established dollar threshold or to  
16                         refuse frequent unsourced cash deposits  
17                         exceeding an established threshold and  
18                         time period until the source of the cash  
19                         can be determined and validated."

20                  Do you see that recommendation?

21          A       Yes, I see that. I do.

22          Q       To your knowledge did GPEB ever issue a  
23                  policy --

24          A       No, they didn't. They did not.

25          Q       [Indiscernible] of cash cap?

1           A     They did not.

2           Q     They did not. All right. Can I ask you to look  
3                   at recommendation 4.5, which is now directed to  
4                   BCLC. Do you see there, if you can just read  
5                   along with me, it says:

6                         "If GPEB implements a policy regarding the  
7                         refusal of large or frequent unsourced  
8                         cash deposits, BCLC's procedures to  
9                         address the policy should include  
10                        refresher training to service providers  
11                        pertaining to BCLC's reporting  
12                        requirements of attempted transactions to  
13                        ensure reports are properly identified."

14                   Do you see that there?

15          A     I do.

16          Q     Okay. So as I understand it, the MNP report was  
17                   recommending that GPEB issue a policy and that  
18                   if that policy is issued by GPEB, BCLC does its  
19                   best to effectively implement a cash cap; right?

20          A     That's correct, yes.

21          Q     All right. And did you ever hear from GPEB  
22                   about this recommendation at all?

23          A     I did not.

24          Q     And who had commissioned the MNP report?

25          A     GPEB did.



1           Q     All right.  So was it your understanding, then,  
2                    that based on the MNP report, a report  
3                    commissioned by the regulator GPEB, that they  
4                    would be implementing the recommended policies?

5           A     Yes.

6           Q     And that never happened?

7           A     That's correct.

8           Q     All right.  I want to talk to you a little bit  
9                    about source of funds and your involvement --  
10                   thank you, Madam Registrar, I don't need that up  
11                   anymore.  Thank you.

12                    I want to talk to you a little bit about  
13                    what you did do at BCLC to deal with source of  
14                    funds declarations, and can you walk us through  
15                    a little bit in terms of what you put in place  
16                    in order to further elaborate or strengthen that  
17                    component of money laundering controls?

18          A     Certainly.  So upon receiving the briefing from  
19                    Mr. Alderson and seeing that police information  
20                    for the first time, I felt his proposal around  
21                    the 36 named customers was appropriate but  
22                    didn't go near far enough.  And I saw that they  
23                    had been making the progress through late 2014  
24                    into '15, but knowing that now, we had to  
25                    formalize the program, in other words put it in

1 a policy, drive a directive out to service  
2 providers saying that any time there was concern  
3 about a large cash transaction, that player's  
4 play would be frozen until such time that a BCLC  
5 investigator was able to interview them and hear  
6 from them on their source of funds and have them  
7 establish that.

8 If they were unable to establish a source of  
9 funds that was legitimate, they would then  
10 either be banned from using cash in the casinos  
11 or outright banned from the casino depending on  
12 the circumstances. And those decisions rested  
13 with -- at the investigator level, the person  
14 who was actually interacting with the player.

15 Beyond that, as we pushed people to bank  
16 drafts, issues arose there, and we had to  
17 tighten controls, and we brought in a  
18 requirement along the source of funds that those  
19 using bank drafts had to bring in a bank receipt  
20 that matched the bank draft.

21 Q Okay. I want to ask you now a series of  
22 questions arising from again questions put to  
23 you by commission counsel, and I believe the  
24 province raised it as well, and that was  
25 relating to the assertions you make in your

1                   affidavit about occasions where you requested  
2                   information either from the authorities or from  
3                   GPEB to take some sort of enforcement action and  
4                   where to find it.

5                   So the first one I want to talk to you  
6                   about is do you recall being asked questions  
7                   about the fact that 10 people had been arrested  
8                   by JIGIT?

9                   A     Nine people, yes.

10                  Q     Nine, okay.

11                  A     Yes.

12                  Q     And you sought the names of those nine people so  
13                       that you could take enforcement action at the  
14                       casinos?

15                  A     Yes.

16                  Q     Okay. And you were not provided that  
17                       information?

18                  A     That's correct.

19                  Q     All right. And what was put to you is that you  
20                       were not provided that information with the  
21                       names of the arrested people because there was a  
22                       police investigation?

23                  A     That -- yes.

24                  Q     All right. How did you learn that nine people  
25                       were arrested?

1           A     Through a press release -- a press conference  
2                   that was conducted by GPEB and JIGIT.

3           Q     All right.  And in the press conference by GPEB  
4                   and JIGIT, in addition to identifying the fact  
5                   that nine people had been arrested, do you  
6                   recall that they publicized the fact that it was  
7                   in relation to an organized crime network in  
8                   relation to illegal gaming and money laundering  
9                   in connection with BC casinos?

10          A     Yes.

11          Q     All right.  So am I right to say that it was no  
12                   secret that the nine people who had been  
13                   arrested were arrested at least in part -- it  
14                   may have been being investigated for other  
15                   things, but they were arrested in part for money  
16                   laundering in connection with BC casinos?

17          A     Yes.

18          Q     Okay.  Did you ever go back to GPEB or the  
19                   police and say, how could this impact a police  
20                   investigation if you've just had a media release  
21                   that says they were nine people that are being  
22                   investigated for money laundering at casinos?

23          A     Yes, there was a meeting, and it was headed up  
24                   by the -- I believe at the time he was Chief  
25                   Superintendent or he might have been assistant

1 commissioner at that time who was responsible  
2 for JIGIT. This was canvassed at length, and we  
3 were concerned not only that they were money  
4 laundering, but the allegation was that they  
5 were engaging in a number of offences against  
6 people that involved violence. So it wasn't  
7 just money laundering. We didn't want these  
8 people subjecting either our customers or our  
9 staff or our service provider staff to violence.  
10 And we expressed those views and we were, again,  
11 just told that because of the ongoing  
12 investigation these names could not be provided  
13 to us.

14 Q Well, what could have been your planned course  
15 of action if you had been given the names?

16 A We would have banned them. They wouldn't have  
17 been allowed to come on to any casino property  
18 in British Columbia.

19 Q So other than banning them, were you going to do  
20 anything else investigative that could interfere  
21 with a police investigation?

22 A There's nothing else we could do. That's all we  
23 can do.

24 Q So the only thing you were asking for is, give  
25 me the names of the guys you said are laundering

1 money at our casinos so we can tell them they  
2 can't come in?

3 A That's correct.

4 Q And they wouldn't do that?

5 A That's correct.

6 Q All right. What about the chip swap? You  
7 recall being asked questions about the chip swap  
8 that you had planned to engage in?

9 A Yes.

10 Q Okay. And do you recall it being put to you  
11 that the planned chip swap could have interfered  
12 with an ongoing investigation?

13 A I do.

14 Q Okay. Do you recall receiving information from  
15 Mr. Alderson that inspector Mike Serr had he  
16 known what the purpose of the swap was, would  
17 not have had any concerns about it interfering  
18 with an investigation?

19 A Yes. Mr. Alderson briefed me on that.

20 Q Okay. Can you tell us a little bit about that.

21 A It was, I think, after we finally got the  
22 go-ahead. Because it had been hung up and I  
23 believe Mr. Alderson was engaging with the  
24 police trying to get this unstuck, and it was as  
25 a result of those conversations Mr. Alderson

1                   came back and said well, had they actually  
2                   understood what was going on, they would not  
3                   have asked us to delay.

4           Q        Okay. So when the question was put to you that  
5                   this could have interfered with an ongoing  
6                   police investigation your information from  
7                   Inspector Mike Serr is that it would not have  
8                   interfered with any police work?

9           A        Yes, based on what he understood later.

10          Q        Okay. Who was it that was communicating  
11                   information about the chip swap that you had  
12                   planned?

13          A        Mr. Alderson was speaking with Mr. Meilleur of  
14                   GPEB.

15          Q        GPEB. So was GPEB the group liaising with the  
16                   police?

17          A        Apparently, yes.

18          Q        All right. And the last area that was put to  
19                   you about this, and we've heard a little bit  
20                   about this I gather, is that questions were put  
21                   to you that in the MNP investigation or work  
22                   that there were allegations that blood was found  
23                   on money and it was accepted, that money arrived  
24                   at a casino and it was accepted, and that a  
25                   person when asked about their occupation said

1                   princess, and that was accepted. Do you recall  
2                   that being put to you?

3           A     Yes.

4           MS. HENEIN: Okay. Can I ask for document BCLC0310,  
5           Madam Registrar, to be brought up. And this is  
6           a -- we gave notice of it, Mr. Commissioner. It  
7           is not a document that was included in the  
8           affidavit, but we did give notice of it.

9           THE COMMISSIONER: All right. So it can be live  
10           streamed?

11          MS. HENEIN: I'm not sure if this is a document that  
12          counsel for the government would have any  
13          objection to being live streamed. It's a  
14          Section 86 Report if that's of assistance to my  
15          friends.

16          THE COMMISSIONER: It might be.

17          MS. WRAY: Yes, Mr. Commissioner. This is BJ Wray  
18          with the Attorney General of Canada. Out of an  
19          abundance of caution I would definitely say any  
20          Section 86 Reports should not be live streamed.

21          MS. HENEIN: Thank you.

22          THE COMMISSIONER: Thank you.

23          MS. HENEIN:

24          Q     This is a report dated January 18th, 2016,  
25          Mr. Kroeker?



1 A Yes.

2 MS. LATIMER: I apologize for interrupting.

3 Mr. Commissioner, you asked about live  
4 streaming, but I think the separate issue is  
5 whether it should be placed in such a way that  
6 Mr. DelBigio can also see it.

7 THE COMMISSIONER: Yeah, I think the idea is simply  
8 that he would turn away from it.

9 MR. DELBIGIO: I will look away.

10 THE COMMISSIONER: Thank you.

11 MS. HENEIN: Thank you.

12 Q You're not missing anything too exciting. The  
13 Section 86 Report that we're looking at, are you  
14 familiar with it, Mr. Kroeker?

15 A I am.

16 Q All right. And I gather this was a report that  
17 you made as a result of the allegations that --  
18 or the information that MNP had brought to your  
19 attention?

20 A I believe it was actually Mr. Alderson that  
21 completed it and submitted it, but yes I'm aware  
22 of it.

23 MS. HENEIN: Can we just scroll down a little bit,  
24 Madam Registrar. Thank you.

25 Q Do you see there in the report those three

1 issues are identified?

2 A Yes.

3 Q All right. And so am I right, then, that when  
4 MNP says that they've gotten this information,  
5 you -- BCLC makes a Section 86 Report?

6 A We felt we had to because each of these is a  
7 criminal offence, and under Section 86 we're  
8 required to report never information related to  
9 a criminal offence connected to gaming.

10 Q Okay. And did you get any information from GPEB  
11 as to what next steps you should take?

12 A We did not.

13 Q Did they -- did MNP provide you with any  
14 additional information about any details so you  
15 could get information on this?

16 A No. They didn't. We asked at the meeting if  
17 they could provide us at least the names and the  
18 details and they said they couldn't, and we were  
19 hopeful that that would come out in the report.

20 Q All right. And did it come out in the final  
21 report?

22 A These three findings, as far as I recall, do not  
23 appear in the report.

24 Q Okay. And based on this note, it says that this  
25 was -- there was information obtained from

1 interviews of employees. Was there any reason  
2 given to you why they wouldn't give you any more  
3 information about these allegations that were  
4 ultimately not included in the final report?

5 A You know, to the best of my recollection it was  
6 just something to do with they felt there was  
7 confidentiality between them as an auditor and  
8 the employees they interviewed at Great  
9 Canadian.

10 Q Okay. And did GPEB ever come back to you and  
11 see whether you can obtain authorization for  
12 disclosure of this information or any attempt at  
13 all to get this to the police?

14 A No.

15 Q You were also asked questions about information  
16 that you received --

17 MS. HENEIN: Thank you very much -- could I ask that  
18 that be made an exhibit, Mr. Commissioner,  
19 please.

20 THE COMMISSIONER: Yes, very well. That will be the  
21 next exhibit.

22 THE REGISTRAR: Exhibit 497, Mr. Commissioner.

23 MS. HENEIN: Thank you.

24 **EXHIBIT 497: GPEB Section 86 Report re Alleged**  
25 **Service Provider non-compliance to PCMLTFA,**



1                   Mr. Meilleur and Ms. Fitzgerald were also  
2                   present at the meeting. They advised that the  
3                   names could not be provided because a police  
4                   investigation. Mr. Fyfe then said to Mr. Smith  
5                   that he would make inquiries of the deputy  
6                   Solicitor general, who has ownership of the  
7                   police file, portfolio, if I can put it that  
8                   way, as to whether or not this information could  
9                   be obtained and shared and that he would get  
10                  back to him.

11                  About a week later or so, Mr. Lightbody  
12                  phoned me on this matter and he said that  
13                  Mr. Fyfe had gotten back to him verbally and  
14                  said they couldn't provide us the ten names  
15                  because GPEB never had 10 names.

16                  Q     What does that mean, they never had 10 names?

17                  A     I don't know.

18                  Q     What did you understand it to mean?

19                  A     They never actually had the names. Perhaps they  
20                  were told about this occurring, but they never  
21                  actually had the persons' names.

22                  Q     Was a directive issued to service providers  
23                  requiring receipts for bank drafts?

24                  A     Yes.

25                  Q     In December of 2017, that's the date of the

1 directive?

2 A That's correct.

3 Q All right. And was that GPEB issuing the  
4 directive under the regulatory authority to deal  
5 with this bank draft issue?

6 A No. That was the final step I took in regards  
7 to this bank draft issue. We'd done a review  
8 of -- I think we talked about this, about  
9 7,500 bank drafts and we still couldn't see the  
10 problem and that's why we put the bank draft  
11 receipt issue in, to try and get that additional  
12 information GPEB and the police were looking for  
13 and to protect ourselves as well.

14 Q So leaving aside whether you could get the  
15 names, whether 10 names existed, can you  
16 summarize for us the action that GPEB took to  
17 deal with bank drafts.

18 A They attended meetings with JIGIT and they would  
19 then pass on to us that their reports that there  
20 were serious problems with money being laundered  
21 through casinos and the method being that bank  
22 drafts were being acquired from the top five  
23 banks using proceeds. The people were then  
24 coming in and spending that money to gamble.

25 There was one instance I believe that the

1           RCMP found where there was a buy-in and then  
2           shortly after -- with a bank draft and shortly  
3           after a cash-out and a cheque was obtained.  
4           That does look a little bit like structuring,  
5           but that was only the one case.

6           Q    No, but I'm not interested in specific cases.  
7           GPEB has identified or raised a problem. You  
8           have issued -- BCLC issues a directive in  
9           December of 2017 to try to deal with this  
10          problem of bank drafts by requiring receipts to  
11          get a paper trail, I gather. I'm asking you  
12          what directives did GPEB issue to deal with this  
13          problem of bank drafts?

14          A    None.

15          MS. HENEIN: Thank you. All right. I'm mindful of  
16          the time, so -- Mr. Commissioner, and I should  
17          be within my time limit. I may be five minutes  
18          over, but not more than that.

19          THE COMMISSIONER: Thank you, Ms. Henein.

20          MS. HENEIN: Thank you.

21          Q    I want to go to another area that you were  
22          questioned about, and that was that in January  
23          of 2018 while you were at BCLC, do you recall  
24          that you were asked questions about your  
25          attempts to implement a number of AML controls?

1 Do you recall that?

2 A Yes, I do.

3 Q And do you recall that in January of 2018 you  
4 wanted to implement a \$25,000 cash cap?

5 A Yes.

6 Q Okay. And the reason or the purpose of  
7 implementing the cash cap of \$25,000 in your  
8 find mind was what?

9 A There were a couple aspects to it. The first it  
10 had been recommended by MNP in their report, the  
11 changing nature of the AML file. Clearly we  
12 were running on a risk-based program and clearly  
13 the appetite for risk was decreasing both in  
14 government and in the public, and we were also  
15 having a problem with the new directive with  
16 sourced cash. So to source the cash, when cash  
17 was paid out from a casino and it had originated  
18 and been sourced when it came in, the customer  
19 could come back subsequently with that cash only  
20 if the casino could verify that that money had  
21 been paid out to them and had been prior --  
22 sourced prior to that. And that was causing  
23 enormous amounts of work for both service  
24 providers and us. So we wanted to ban cash in  
25 and out at \$25,000, to cap them at \$25,000.



1           Q     And in terms of the other AML controls that you  
2                    wanted to put in place at that time -- and I  
3                    don't need a full description given the time --  
4                    do you agree that one of the things was a cash  
5                    payout cap of 25K?

6           A     Yes.

7           Q     That you wanted to delimit convenience cheques?

8           A     Yes.

9           Q     And you wanted to remove the minimum deposits  
10                   for PGF accounts to encourage players to use the  
11                   account?

12          A     That's right. It was high. It was \$10,000.

13          Q     All right. So these were four specific AML  
14                   controls that you wanted to actively put in  
15                   place in January through March of 2018 while you  
16                   were at BCLC; is that right?

17          A     Yes.

18          Q     All right. And you gave evidence that you were  
19                   told by Mr. Lightbody that Minister Eby had  
20                   instructed BCLC not to put controls in place  
21                   until German's report had been released?

22          A     Yes.

23          Q     All right. And do you recall commission counsel  
24                   asking you questions to the effect that well,  
25                   you didn't speak to Mr. Eby; this was

1 information you were given by Mr. Lightbody?

2 A Yes.

3 MS. HENEIN: All right. Can I ask, Madam Registrar,  
4 for you to turn up exhibit number 111 of  
5 Mr. Kroeker's affidavit.

6 Q Do you recognize these notes, Mr. Kroeker?

7 A Yes. I made them.

8 Q All right. And when did you make those notes?

9 A At the time of -- that's indicated. So it would  
10 have been on January 18th at 8:30 a.m.

11 Q All right. So is it at the time you're having  
12 the conversation you believe with Mr. Lightbody?

13 A It is.

14 Q All right. And I gather from a -- because  
15 you're a lawyer as well, but we usually don't  
16 put times. Is this from your police training to  
17 take detailed notes like this?

18 A Yes, it is. And I've kept private journals  
19 every job I've had ever since I left the police.

20 Q All right. In January 18th of 2018 did you have  
21 any idea that you would be testifying at a  
22 commission of inquiry?

23 A None.

24 Q Of money laundering. Okay. And did you have  
25 any idea at the time that it would be an issue

1                   as to what instructions you had received about  
2                   whether or not you could proceed with AML  
3                   controls that would protect citizens in British  
4                   Columbia from money laundering? Did you know  
5                   that that would be a live issue?

6           A        I did not.

7           Q        Okay. I want to ask you to look at the notes  
8                   that you made at the time of your call, and the  
9                   very first sentence there says:

10                         "Jim advised he had a phone call with  
11                         Richard Fyfe."

12                   I gather that's Jim Lightbody.

13           A        That's correct.

14           Q        All right. And can I ask you to drop down to  
15                   the third paragraph there where it says:

16                         "Jim had advised Fyfe of our contemplation  
17                         of a cash limit at \$25,000 earlier, and  
18                         this was a followup call Fyfe had wanted  
19                         to discuss with the minister. Jim said  
20                         Fyfe advised the response back from the  
21                         minister was the minister was pissed, very  
22                         upset, did not like we were doing this now  
23                         ahead of German recommendations, didn't  
24                         want us getting ahead of him (the  
25                         minister) being able to announce things."

1                   Can I ask you to go to the next page, Madam  
2                   Registrar.

3                   "Fyfe and the minister had discussed doing  
4                   this with German and German didn't want to  
5                   make such a recommendation because he  
6                   didn't know if it was necessary or  
7                   feasible."

8                   And then it goes on to summarize what  
9                   Mr. Lightbody said, and then if I can ask you to  
10                  read with me:

11                  "Fyfe would not provide advice one way or  
12                  the other but said again the minister was  
13                  very unhappy BCLC was being proactive."

14                  Did you understand the information that you  
15                  received was that the minister was unhappy that  
16                  BCLC was putting in AML controls?

17                  A     That's the message I received.

18                  Q     All right. And the last line:

19                  "Jim said in the end no direction was  
20                  given but it was made very clear the  
21                  minister was really upset BCLC was  
22                  continuing with the program changes."

23                  Right?

24                  A     Yes.

25                  Q     All right. And can I ask you to look at

1 exhibit 112, please.

2 A I have it.

3 Q Thank you. And your indulgence, please.

4 MS. LATIMER: You're muted.

5 MS. HENEIN:

6 Q This is another conversation that you have with  
7 Mr. Lightbody the next day, dated January 19th,  
8 2018?

9 A That's correct.

10 Q Okay. And, again, I'm not going to take you  
11 through all of it, but in there you say you were  
12 told that Minister Eby remained extremely mad,  
13 wanted BCLC to reconsider the timing and wanted  
14 BCLC to run the proposal by Mr. German. Do you  
15 recall that?

16 A Yes, I do.

17 Q Following these discussions, did you implement  
18 the \$25,000 cash cap that you had been working  
19 on?

20 A We did not.

21 Q Okay. Other than these conversations that you  
22 had with Mr. Fyfe reporting to you what the  
23 minister had said, was there any other  
24 intervening event that caused you not to  
25 implement the \$25,000 cash cap?

1           A     It was pretty well dead at this point, but there  
2                    was a followup letter sent by email from the  
3                    minister directly to Mr. Lightbody which was  
4                    shared with me that reiterated -- it made it --  
5                    none of this detail, it said just don't do any  
6                    controls until Mr. German reports.

7           Q     Sorry. Let me repeat by question. Other than  
8                    these communications from Mr. Lightbody  
9                    reporting what the minister is instructing BCLC  
10                   to do, was there anything else that caused you  
11                   not to put the \$25,000 cash cap in place? In  
12                   other words, was it operationally difficult?  
13                   Did you have a problem that you were not aware?  
14                   Was there anything else that --

15          A     No.

16          Q     -- could explain why on earth you did not put  
17                   into place this cash cap that you were --

18          A     No. We had been working on it for months. It  
19                   was fully researched with outside help as well,  
20                   an outside report, and it was ready to go.

21          Q     Nothing else you can help us with, then. All  
22                   right.

23                   Can I ask, Madam Clerk, that you put up  
24                   exhibit 123.

25                   And this is a note dated March 29th, 2018.

1                   Who is that a conversation with, Mr. Kroeker?

2           A        I'm sorry.

3           Q        This is -- what is this note that is dated -- is  
4                   it a board meeting?

5           A        Yes.  It was an extraordinary board meeting  
6                   called by conference call.  It was myself.  I  
7                   can't remember the other board members present,  
8                   but Mr. Smith, who was then the board chair, and  
9                   Mr. Lightbody were on the call.

10          Q        All right.  And so this is a circumstance where  
11                   Mr. Lightbody's reporting to other board  
12                   members, not just you?

13          A        That's my understanding, yes.

14          Q        Well, are they on the call?

15          A        I can't recall specifically which board members  
16                   were on the call, but yes, that's the purpose of  
17                   it.

18          Q        I didn't ask you can which.  Were there other  
19                   board members on the call?

20          A        I can't recall for sure.

21          Q        Okay.  When it says extraordinary board meeting  
22                   by conference call, what do you take that to  
23                   mean?

24          A        That Mr. Smith was there and certainly other  
25                   board -- a quorum would have been present.

1           Q     Okay.  And in your notes here, is it -- again  
2                   I'm not going to go through them in detail, but  
3                   once again, according to your notes, the  
4                   information you're given is that "the minister  
5                   said he had thought he'd made himself clear that  
6                   BCLC was not to do anything before I release the  
7                   German recommendations"?

8           A     That's correct.

9           Q     All right.  So as a result of that, and if I can  
10                  ask to go to the next page, Madam Registrar,  
11                  right at the top there it says:

12                         "Fyfe repeated we are not to take any  
13                         anti-money laundering actions until the  
14                         minister says we can."

15          A     Yes.

16          Q     Do you see that?

17          A     I do.

18          Q     All right.  And as a result of that information,  
19                  did you follow the instruction and not impose  
20                  any of the anti-money laundering controls that  
21                  you had been planning to impose?

22          A     Yes.  We held back on three of the four that  
23                  you -- the other three of the four that you  
24                  mentioned.

25          Q     Okay.  No cash cap, no cash payout, no



1 delimiting convenience cheques, no removing the  
2 minimum deposit for PGF accounts?

3 A That's correct.

4 Q All right. In Mr. German's report he indicated  
5 that the administrative monetary penalty against  
6 BCLC resulted in a draw. Do you recall that?

7 A I do.

8 MS. HENEIN: Can I ask you, Madam Registrar, to pull  
9 up document BCLC16794.

10 Q Are you familiar with this consent federal court  
11 order regarding the administrative monetary  
12 penalty?

13 A I am.

14 Q All right. If I can ask Madam Registrar for you  
15 to just go down a bit on that page. Thank you.  
16 If you can keep going. Sorry, too fast. I'm  
17 just looking for the section there if you just  
18 slow down there.

19 Do you see where it says:

20 "Whereas the British Columbia Lottery  
21 Corporation, following its own internal  
22 review, acknowledges there were technical  
23 administrative violations in its reporting  
24 and provided evidence of due diligence."

25 A I do.

1           Q            "And whereas the parties have determined  
2                           that violations were reasonably  
3                           attributable to technical matters such as  
4                           software management and data entry issues  
5                           and were remedied by BCLC; and whereas  
6                           FINTRAC is satisfied that the technical  
7                           administrative violations were quickly  
8                           remedied and that the subsequent  
9                           compliance examinations demonstrated  
10                          enhanced compliance."

11                       And if you could go down a bit. Thank you.

12                           Do you recall seeing that order?

13           A            I do.

14           Q            Is that the order that you understand Mr. German  
15                           to be referring to as a draw?

16           A            Yes, it is.

17           Q            All right. And that appeal was allowed?

18           A            It was.

19           Q            All right. And the administrative monetary  
20                           penalty set aside?

21           A            That's correct.

22           MS. HENEIN: Mr. Commissioner, if that can be marked  
23                           as an exhibit, please.

24           THE COMMISSIONER: Very well.

25           MS. HENEIN: Thank you.

1 THE REGISTRAR: Exhibit 498, Mr. Commissioner.

2 **EXHIBIT 498: Consent Order of Federal Court,**  
3 **between BCLC and AG of Canada - July 2017**

4 MS. HENEIN:

5 Q All right. I just have two more areas that --  
6 two more questions that I'd like to get your  
7 assistance with, Mr. Kroeker.

8 Thank you very much, Madam Registrar. I  
9 don't need that document anymore. Can I ask you  
10 to pull up, Madam Registrar, BCLC8586.

11 And while Madam Registrar is pulling up  
12 document 8586, Mr. Kroeker, am I right that you  
13 worked with Mr. Alderson; right?

14 A I did.

15 Q And he left BCLC in 2017?

16 A Yes.

17 Q He resigned?

18 A Yes.

19 Q And since his resignations, he's made some  
20 comments about you publicly?

21 A That's correct.

22 Q How would you describe his working relationship  
23 with you at the time as you understood it?

24 A We had a very productive relationship.

25 Q All right. And this resignation letter dated

1                   October 3rd, 2017, says a number of things,  
2                   including that he's grateful to his BCLC  
3                   colleagues. Is there anything in that letter  
4                   that's critical of you or suggesting he resigned  
5                   because of you?

6           A     No.

7           Q     Or that BCLC was not doing everything it could  
8                   for -- to implement AML controls?

9           A     No. There's no criticisms.

10          MS. HENEIN: All right. Could that be marked as the  
11                   next exhibit, Mr. Commissioner?

12          THE COMMISSIONER: Very well.

13          MS. HENEIN: Thank you.

14          THE REGISTRAR: Exhibit 499, Mr. Commissioner.

15          THE COMMISSIONER: Thank you.

16                   **EXHIBIT 499: Resignation letter of Ross**

17                   **Alderson - October 3, 2017**

18          MS. HENEIN:

19          Q     The last question I have for you is this,  
20                   Mr. Kroeker --

21                   Thank you, Madam Registrar, I don't need  
22                   that anymore.

23                   The last question I have for you, Mr.  
24                   Kroeker is this: prior to coming to the  
25                   government and GCGC and BCLC you spent many,

1                   many years in law enforcement?

2           A     Yes.

3           Q     And then you got your law degree?

4           A     Yes.

5           Q     And with your law degree and your police  
6                   background you is it fair to say have always  
7                   worked on the law enforcement compliance side?

8           A     Yes. That would be a fair characterization.

9           Q     You're not a floor manager, you're not on the  
10                  business side of casinos, you're not wining and  
11                  dining high rollers. That's not what you do?

12          A     That's right.

13          Q     You've spent your life in compliance and trying  
14                  to deal with money laundering and making casinos  
15                  secure places in British Columbia?

16          A     Yes.

17          Q     So can you tell me, having sat through now two  
18                  days of this, having spent months at this  
19                  commission, having heard the sorts of things  
20                  said about you by Mr. Alderson or reported in  
21                  the media and never having had an opportunity to  
22                  respond to them, you have had that opportunity  
23                  now. How has that -- how has that impacted on  
24                  you?

25          A     Well, it's been devastating not being able to

1                   respond, particularly when others at the  
2                   corporation, and especially from my team.

3           Q     For your ...

4           A     From my team.

5           Q     Why from your team?

6           A     They're professionals and to see them  
7                   continually attacked and maligned, it's really  
8                   unfair.

9           MS. HENEIN: Thank you very much. Thank you,  
10                   Mr. Kroeker. I don't have any other questions.

11          THE COMMISSIONER: Thank you, Ms. Henein.

12                   Anything arising, Ms. DelBigio?

13          MR. DELBIGIO: Sorry, I have one question arising.

14                   **EXAMINATION BY MR. DELBIGIO:**

15          Q     Mr. Kroeker, are you still able to hear me?

16          A     Yes.

17          Q     Your lawyer took you through some handwritten  
18                   notes of yours that refer to interactions that  
19                   you had with elected officials and their -- and  
20                   those around them. I asked you earlier  
21                   questions about what you meant by things being  
22                   politically charged. My question for you is do  
23                   those notes serve as examples of what you mean  
24                   by things having become politically charged?

25          A     Yes. Those -- I spent a number of years in

1                   government, and those were unusual events in my  
2                   experience.

3                   MR. DELBIGIO: Thank you, sir. Those are my  
4                   questions.

5                   THE COMMISSIONER: Thank you, Mr. DelBigio.  
6                   Mr. Skwarok.

7                   MR. SKWAROK: No questions, sir. Thank you.

8                   THE COMMISSIONER: Mr. Butcher.

9                   MR. BUTCHER: No questions.

10                  THE COMMISSIONER: Mr. McFee.

11                  MR. McFEE: Nothing arising. Thank you,  
12                  Mr. Commissioner.

13                  THE COMMISSIONER: Ms. Hughes.

14                  MS. HUGHES: Yes, Mr. Commissioner. I have two brief  
15                  questions arising.

16                  **EXAMINATION BY MS. HUGHES:**

17                  Q     First, Mr. Kroeker, your counsel asked you some  
18                        questions about GPEB issuing directives, and she  
19                        referred you to section 28(1) of the *Gaming*  
20                        *Control Act*. Do you recall that line of  
21                        questioning?

22                  A     Yes.

23                  Q     And you indicated that you understood that GPEB  
24                        could issue directives to the corporation? Do  
25                        you recall giving that evidence?

1           A     Yes, I do.

2           Q     But to be fair, were you also aware of  
3                 section 28(3) of the *Gaming Corporation Act*  
4                 which provided until November 2018 that the GM  
5                 of GPEB could not issue a directive to the  
6                 corporation unless ministerial approval was  
7                 given?

8           A     That's my understanding, yes.

9           Q     Okay. Thank you. And then second, your counsel  
10                asked you some questions about GPEB  
11                investigators coming into casinos at peak hours  
12                to do some form of monitoring. You recall that  
13                line of questioning?

14          A     I do.

15          Q     And you said you were not aware of any regulator  
16                present at the casinos. Do you recall giving  
17                that evidence?

18          A     During peak hours, yes.

19          Q     Yes. Now, to be fair, service providers had  
20                surveillance staff that were in the casinos  
21                24/7; is that right?

22          A     Absolutely, yes.

23          Q     And BCLC also had investigators that would  
24                attend at the casinos from time to time; is that  
25                fair?



1           A     No, they were stationed there. They worked from  
2                   the casinos.

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

4           THE COMMISSIONER: Thank you, Ms. Hughes.

5                   Ms. Latimer.

6           MS. LATIMER: Nothing arising. Thank you.

7           THE COMMISSIONER: All right. Thank you.

8                   Mr. Kroeker, thank you very much. We've taken  
9                   two fairly intense days of your time. I'm very  
10                  appreciative of your sharing your experiences  
11                  and time with us. You're now excused from  
12                  further testimony.

13          THE WITNESS: Thank you.

14                   **(WITNESS STOOD DOWN)**

15          THE COMMISSIONER: I think what we'll do now is  
16                  adjourn until tomorrow morning at 9:30,

17                  Ms. Latimer.

18          THE REGISTRAR: The hearing is adjourned until  
19                  January 27, 2021 at 9:30 a.m. Thank you.

20                   **(PROCEEDINGS ADJOURNED AT 2:40 P.M. TO JANUARY 27,**  
21                   **2021)**

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