

**PROCEEDINGS AT HEARING
OF
SEPTEMBER 14, 2021**

COMMISSIONER AUSTIN F. CULLEN

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September 14, 2021

(Via Videoconference)

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

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

THE COMMISSIONER: Yes. Thank you, Madam Registrar.

Mr. Martland, I gather you have some exhibits to tender.

MR. MARTLAND: Yes, Mr. Commissioner, I do. And it's really in the category of housekeeping, and I apologize for Mr. Boyle and counsel for interrupting, but we thought it was sensible to simply deal with this right at the outset, and of course if there were to be any curve ball that comes in my direction, it gives me some chance to deal with that.

Mr. Commissioner, there's a final collection of documents which commission counsel are now asking to have marked as exhibits in the hearings. Our hope is that that's the last group of documents in this category. It could prove to be that there is a further document or affidavit or whatnot that we need to deal with, but we would look to deal with that in writing and without convening a further hearing simply

1 for that purpose if we can do that.

2 There's a list of documents that, Madam
3 Registrar, if you're able to display the list of
4 documents. Participants have this list as well.
5 And I don't propose to bring up each and every
6 one of the documents that is listed here and
7 refer to them, but what's being proposed,
8 Mr. Commissioner, is that we would really work
9 through this list and have each of these
10 documents marked as an exhibit one by one. As I
11 say, I don't propose to mark or to rather bring
12 up each of those documents. All of these are
13 documents that have been circulated to
14 participants. Counsel and participants whose
15 grant of standing pertains to the subject matter
16 have had the opportunity to raise concerns or
17 address any issues. I don't understand there to
18 be further impediments to marking materials now.
19 The one caveat to that is that there may be a
20 few instances where there's the possibility of
21 redactions before the document is posted on our
22 website, and there's the possibility in one
23 instance of a claim of privilege being made over
24 one -- one part of an overview report. So what
25 I'm going to be proposing that is first for all

1 of these there be a direction that they're
2 not -- I think consistent with our practice,
3 frankly, they won't be posted until there's an
4 opportunity for redactions to be made and then
5 in the case of the one document I may be asking
6 it be marked subject to the possibility of a
7 privilege claim being made. I expect that's
8 something counsel can resolve between ourselves.

9 THE COMMISSIONER: All right. I'll make those
10 directions, then, Mr. Martland.

11 MR. MARTLAND: Thank you. And what I'll do here as I
12 go through these -- as I say, I haven't
13 understood there to be any objections or
14 concerns, but there's always the possibility I
15 haven't heard of something, so if they were to
16 be, I'd invite any participant to alert us if
17 there's an issue that arises. Number 1 that
18 appears on the list, it's a case study overview
19 report, and I'm proposing -- and Madam Registrar
20 can confirm my math is right, but I have that
21 was proposed exhibit 1039.

22 THE REGISTRAR: Yes.

23 THE COMMISSIONER: All right. 1039.

24 **EXHIBIT 1039: Case Study Overview Report -**
25 **May 14, 2021**

1 MR. MARTLAND: Number 2, the Lang affidavit would
2 become exhibit 1040.

3 THE COMMISSIONER: Very well.

4 **EXHIBIT 1040: Affidavit no. 2 of Bill Lang**
5 **affirmed May 21, 2021**

6 MR. MARTLAND: Number 3, the Ross affidavit would be
7 exhibit 1041.

8 THE COMMISSIONER: All right.

9 **EXHIBIT 1041: Affidavit no. 3 of Adam Ross**
10 **affirmed May 19, 2021**

11 MR. MARTLAND: Number 4, McCrea affidavit 1042.

12 THE COMMISSIONER: Yes.

13 **EXHIBIT 1042: Affidavit no. 1 of William McCrea**
14 **sworn August 16, 2021**

15 MR. MARTLAND: Number 5, the Schalk affidavit would
16 be exhibit 1043.

17 THE COMMISSIONER: Very well.

18 **EXHIBIT 1043: Affidavit no. 1 of Joe Schalk**
19 **sworn August 23, 2021**

20 MR. MARTLAND: Number 6, the Van Sleuwen affidavit,
21 exhibit 1044.

22 THE COMMISSIONER: 1044.

23 **EXHIBIT 1044: Affidavit no. 1 of Terri Van**
24 **Sleuwen sworn August 23, 2021**

25 MR. MARTLAND: Thank you. Number 7, Cuglietta

1 affidavit, exhibit 1045, please.

2 THE COMMISSIONER: Very well.

3 **EXHIBIT 1045: Affidavit no. 3 of Cathy**

4 **Cuglietta - August 31, 2021**

5 MR. MARTLAND: Exhibit 8 is an overview report that
6 is entitled "New Developments and Miscellaneous
7 Documents." It appends a number of documents
8 that have come into view as being pertinent to
9 the mandate and being sought to be put before
10 you in that format. This is an overview report
11 where there's some possibility it may be a
12 non-issue, but there's a possibility of an
13 assertion of privilege in relation to one
14 appended document to it, so for this document
15 I'll be proposing that the overview report, as I
16 say, it would be under the direction that it's
17 not to be posted, and then secondly I'd ask that
18 it would be admitted subject to any redactions
19 for privilege, in particular pertaining to one
20 of the appended document which is -- I think
21 it's appended as document Roman numeral I.

22 THE COMMISSIONER: But you're satisfied it would be
23 marked as an exhibit proper?

24 MR. MARTLAND: I am. And in fact I suspect -- I'm
25 trying to do this in real time through messages.

1 I think the redaction or privilege issue may
2 prove to be a non-issue. I'm confident counsel
3 can sort that out as between ourselves and
4 counsel for Canada, so if it's marked on that
5 footing, I expect it's simply a matter of us
6 confirming that there is or isn't a privilege or
7 need to redact for privilege and then once
8 redactions are made if they're needed, that's
9 the exhibit.

10 THE COMMISSIONER: All right.

11 MR. MARTLAND: So that would become exhibit 1046,
12 please, the overview report.

13 THE COMMISSIONER: Yes.

14 **EXHIBIT 1046: Overview Report - New**
15 **Developments & Miscellaneous Documents**

16 MR. MARTLAND: And I should continue on, then,
17 number 9 on the list is an overview report
18 relating to Gateway Casinos Incorporated as
19 opposed to Gateway Casinos Limited. That is
20 proposed to be the exhibit 1047.

21 THE COMMISSIONER: All right.

22 **EXHIBIT 1047: Overview Report - Gateway Casinos**
23 **& Entertainment Inc. And Gateway Casinos &**
24 **Entertainment Limited**

25 MR. MARTLAND: Number 10 on the list, the Bennett

1 affidavit, I should point out in relation to
2 this affidavit, the exhibits to the affidavit
3 contain sensitive information related to the
4 operation of casinos in British Columbia. Some
5 of that information was previously redacted in
6 the public-facing version of exhibit 76, which
7 is an overview report bearing the title of "BCLC
8 Standard Policies, Procedures and Operational
9 Services." We're seeking the direction the
10 information redacted from the public-facing
11 version of that affidavit also be redacted from
12 the public-facing version of this new affidavit
13 or exhibit, rather -- I'm sorry, the
14 public-facing version of the previous exhibit,
15 the same information would be redacted from the
16 public-facing version of this new exhibit.
17 Commission counsel and counsel for BCLC have
18 already agreed upon appropriate redactions and
19 have prepared a redacted version of the exhibit.
20 So in this case it may be that we need not await
21 redactions, but I just wanted to place on record
22 that that was occurring for this affidavit.

23 THE COMMISSIONER: All right.

24 MR. MARTLAND: Having read the script that was given
25 to me, the number would be exhibit 1048 for

1 number 10.

2 THE COMMISSIONER: 1048.

3 **EXHIBIT 1048: Affidavit of Diana Bennett sworn**
4 **August 31, 2021**

5 MR. MARTLAND: Next the Austin affidavit would be
6 exhibit 1049.

7 THE COMMISSIONER: All right.

8 **EXHIBIT 1049: Affidavit no. 1 of Sandy Austin**
9 **sworn September 9, 2021**

10 MR. MARTLAND: The Scott affidavit would be
11 exhibit 1050.

12 THE COMMISSIONER: Very well.

13 **EXHIBIT 1050: Affidavit of Michael Scott sworn**
14 **September 13, 2021**

15 MR. MARTLAND: The Morrison affidavit, exhibit 1051.

16 THE COMMISSIONER: All right.

17 **EXHIBIT 1051: Affidavit of Blair Morrison sworn**
18 **September 13, 2021**

19 MR. MARTLAND: And finally there's an overview
20 report, number 14 on the list is exhibit K for
21 identification. It's entitled "Paul Jin Debt
22 Enforcement Against BC Real Estate." That
23 overview report was marked as exhibit A for
24 identification at the hearing on May, I think,
25 14th, but in mid-May at the conclusion of that

1 block of evidentiary hearings it was marked as
2 an exhibit for identification because one
3 participant had alerted us to his intended
4 application, that's Mr. Jin. He then brought
5 that application under rule 60. That led,
6 Mr. Commissioner, to your ruling issued in
7 August, ruling 36, which determined that the
8 overview report could be admitted as an exhibit
9 proper. And so with that explanation, I'm
10 asking that number 14 would become exhibit 1052.

11 THE COMMISSIONER: Very well.

12 **EXHIBIT 1052: (Previously marked as exhibit K**
13 **for identification) Overview Report - Paul Jin**
14 **Debt Enforcement Against BC Real Estate -**
15 **May 13, 2021**

16 MR. MARTLAND: And that concludes the review of
17 proposed new exhibits. Thank you.

18 THE COMMISSIONER: Thank you. All right. We will
19 resume with Mr. Boyle, then, and I think,
20 Ms. Rajotte, you are up for the province and
21 have been allocated 45 minutes.

22 MS. RAJOTTE: Thank you, Mr. Commissioner.

23 **ROBERT BOYLE, a witness**
24 **for the commission,**
25 **recalled.**

1 **EXAMINATION BY MS. RAJOTTE:**

2 Q Mr. Boyle, can you hear me okay?

3 A Yes, I can.

4 MS. RAJOTTE: Madam Registrar, could we please pull
5 up document 00003670.

6 Q Mr. Boyle, you received this memo from BCLC's
7 lawyers dated February 19, 2021; correct?

8 A Correct.

9 Q And these are draft questions that were provided
10 to you by BCLC's lawyers for your AML practices
11 report?

12 A Correct.

13 MR. RAJOTTE: Mr. Commissioner, could I please mark
14 this document as the next exhibit.

15 THE COURT: Very well. 1053.

16 THE REGISTRAR: Exhibit 1053.

17 **EXHIBIT 1053: Hunter Litigation Memo to**
18 **B. Boyle re HLC Draft Questions for EY re AML**
19 **Practices - Point in Time Review - February 19,**
20 **2021**

21 MR. RAJOTTE: Madam Registrar, I'm done with that
22 document, and if we could please pull up two
23 different documents. They're numbered
24 document 00003527 and 3528.

25 Q Looking at 3527 first, Mr. Boyle, you'll see

- 1 that this is an email dated March 11, 2021, from
2 your colleague at Ernst & Young to BCLC's
3 lawyers; correct?
- 4 A Correct.
- 5 Q And you were on this email exchange?
- 6 A Correct.
- 7 Q And then if we could turn to document 3528,
8 which is the attachment to the email exchange.
9 This is a table with Ernst & Young's proposed
10 revisions to BCLC's lawyers' draft questions for
11 your AML practices report; correct?
- 12 A Correct.
- 13 Q And if we look at the table, the column that is
14 titled "Original Wording" is the wording
15 proposed by BCLC's lawyers?
- 16 A Correct.
- 17 Q And are revised wording are the revisions
18 proposed by you and your team?
- 19 A Correct.
- 20 Q You narrowed the jurisdictions considered by
21 your report; correct?
- 22 A Correct.
- 23 Q Originally the questions proposed pertained to
24 "any gaming jurisdiction," which was globally;
25 correct?

1 A During our initial scoping conversations with
2 counsel we discussed the gaming jurisdictions
3 that would be applicable based on my
4 professional experience, and based on that
5 conversation we believed it made sense to
6 reference that in the wording of the questions
7 to make that explicit.

8 Q And the questions as originally proposed by BCLC
9 were any gaming jurisdictions globally; correct?

10 A Correct.

11 Q And you propose narrowing this to Canada, United
12 States, the European Union and Macao; correct?

13 A If those are the gaming jurisdictions that were
14 listed in the report under the footnote that was
15 referenced, I believe New Zealand and Australia
16 were referenced in there as well, but the
17 listing in the report are the gaming
18 jurisdictions that fall under that definition.

19 MR. RAJOTTE: Thank you. And, Madam Registrar, if we
20 could just scroll up the page a bit -- sorry, up
21 to the top of the first page.

22 Q Mr. Boyle, this is what I'm referring to. See
23 in this original proposed revision to the
24 questions, gaming jurisdiction at the top is
25 defined as Canada, United States, the European

- 1 Union and Macao; correct?
- 2 A Correct.
- 3 Q And these are jurisdictions in which you have
4 relevant industry experience; is that right?
- 5 A Correct.
- 6 Q And as you stated earlier, your report only
7 addresses these narrow jurisdictions plus
8 Australia and New Zealand which were added at
9 some point after this exchange; correct?
- 10 A Correct. As part of our scoping conversation.
- 11 Q And you also narrowed the applicable time
12 period?
- 13 A Correct.
- 14 Q Originally there was no time period specified?
- 15 A Correct.
- 16 Q And you narrowed the time period under
17 consideration to January 1st, 2014, to
18 December 31, 2020?
- 19 A Correct.
- 20 Q And the questions that BCLC asked you to opine
21 on went through multiple revisions before your
22 instructions were eventually finalized?
- 23 A Correct.
- 24 Q BCLC's final instruction letter was provided to
25 you on April 27th, 2021?

1 A I believe that to be correct.

2 Q And this is after you provide BCLC with multiple
3 drafts of your report?

4 A I'd have to see how many reports we sent,
5 whether it was one -- or we provided draft
6 reports, correct.

7 MR. RAJOTTE: Mr. Commissioner, if I could please
8 have those two documents, the email and
9 attachment, I think it make senses to mark them
10 collectively as the next exhibit.

11 THE COMMISSIONER: All right. 1054.

12 THE REGISTRAR: 1054.

13 **EXHIBIT 1054: Consists of two documents: 1.**
14 **Email re 100% known Play_ BCLC - March 11, 2021**
15 **2. AML Practices - Point in Time**

16 MR. RAJOTTE: Thank you, Madam Registrar. I'm done
17 with those documents.

18 Q Mr. Boyle, you testified yesterday that in your
19 report when you addressed operator practices,
20 this information is based on your personal
21 experience working in the industry; correct?

22 A Correct.

23 Q And you do not have direct experience with
24 casino operators in the United Kingdom,
25 Australia or New Zealand; correct?

- 1 A That's correct.
- 2 Q And these countries are included in the
3 definition of gaming jurisdictions in your
4 report?
- 5 A Correct.
- 6 Q And so in your report when you speak about your
7 experience of operator practices in the gaming
8 jurisdictions, these comments do not apply to
9 the United Kingdom, Australia or New Zealand;
10 correct?
- 11 A Correct. Just the regulatory references.
- 12 Q And the European Union is included in the
13 definition of "gaming jurisdictions" in your
14 report; correct?
- 15 A Correct.
- 16 Q And you are not purporting to have direct
17 experience of casino operator AML practices and
18 procedures in all countries in the European
19 Union, are you?
- 20 A No, not all countries in the European Union.
- 21 Q Yesterday you testified that your direct
22 experience in Europe was in Cypress and Sweden;
23 is that right?
- 24 A That's correct.
- 25 MR. RAJOTTE: Madam Registrar, if we could please

1 pull up document 00003682.

2 Q Mr. Stephens took you to this email exchange
3 yesterday, Mr. Boyle, to refresh your memory
4 about your draft report being shared with some
5 of the participants in the inquiry. Do you
6 recall that?

7 A Yes, I do.

8 Q I have a few further questions about this
9 exchange. If we could --

10 MS. RAJOTTE: Madam Registrar, if we could scroll
11 down to the first email in the exchange. I
12 believe it's on the second page. Sorry, if you
13 can just scroll up slightly to catch the top of
14 that email. Thank you.

15 Q Mr. Boyle, this first email dated April 15th,
16 2021, was sent from BCLC's lawyers to Ernst &
17 Young, and in this exchange BCLC's lawyers asked
18 for Ernst & Young to allow BCLC to share draft
19 versions of your AML practices report and your
20 "Known Play" report with Jim Lightbody and
21 Robert Kroeker under a common interest with
22 BCLC; correct?

23 A Correct.

24 MR. RAJOTTE: Madam Registrar, if we could scroll up
25 slightly, please. Thank you.

1 Q And there's a second email from BCLC's lawyers
2 on April 16, 2021, where they ask for Ernst &
3 Young to also allow BCLC to share draft versions
4 of your AML practices report and your "Known
5 Play" report with Brad Desmarais under a common
6 interest with BCLC; correct?

7 A Correct.

8 Q And Ernst & Young provided letters to BCLC to
9 permit the draft reports to be shared with
10 Mr. Lightbody, Mr. Kroeker and Mr. Desmarais in
11 their common interest with BCLC as requested?

12 A Correct, from my understanding of what our local
13 team provided.

14 Q And you will agree with me that BCLC never asked
15 for your permission to share your draft reports
16 with any of the other participants in this
17 inquiry; correct?

18 A Correct.

19 Q BCLC never asked for your permission to share
20 your draft reports with the Gaming Policy and
21 Enforcement Branch; correct?

22 A Correct.

23 MR. RAJOTTE: Mr. Commissioner, could we please mark
24 this document as the next exhibit.

25 THE COMMISSIONER: Very well. That will be 1055.

1 THE REGISTRAR: Exhibit 1055.

2 **EXHIBIT 1055: Email re SOW - Appendix A -**
3 **April 19, 2021**

4 MR. RAJOTTE: Thank you, Mr. Boyle. Those are my
5 questions.

6 THE WITNESS: Thank you.

7 THE COMMISSIONER: All right. Thank you,
8 Ms. Rajotte.

9 Mr. McFee, do you have anything arising
10 from the examination thus far?

11 MR. McFEE: Nothing arising. Thank you,
12 Mr. Commissioner.

13 THE COMMISSIONER: Thank you. Ms. Peddle?

14 MS. PEDDLE: Nothing arising. Thank you.

15 THE COMMISSIONER: Ms. Bevan?

16 MS. GAILY: It's actually Ms. Gaily. Ms. Bevan had
17 to step away. Nothing further.

18 THE COMMISSIONER: Thank you. Mr. Stephens?

19 MR. STEPHENS: Thank you, Mr. Commissioner.

20 **EXAMINATION BY MR. STEPHENS:**

21 Q Mr. Boyle, can you hear me?

22 A Yes, I can.

23 Q Ms. Rajotte asked you some questions about the
24 sharing of your draft reports with counsel for
25 Mr. Lightbody, counsel for Mr. Desmarais and

1 counsel for Mr. Kroeker. Mr. Boyle, did you
2 ever speak or communicate with any of counsel
3 for Mr. Desmarais, Mr. Kroeker or Lightbody?

4 A I did not.

5 MR. STEPHENS: Thank you, Mr. Commissioner. Those
6 are my questions.

7 THE COMMISSIONER: Thank you. Mr. McGowan?

8 MR. MCGOWAN: No, thank you, Mr. Commissioner.
9 Nothing further.

10 THE COMMISSIONER: All right. Thank you. Mr. Boyle,
11 I'd like to thank you for taking the time to
12 share your evidence and expertise with us over
13 the course of the last several days. It's much
14 appreciated. You are now excused from further
15 testimony. Thank you.

16 THE WITNESS: Thank you. Appreciate it.

17 **(WITNESS EXCUSED)**

18 THE COMMISSIONER: And, Mr. McGowan, I gather we are
19 in a position where we will adjourn now until
20 the 15th of October for submissions. Is that
21 correct?

22 MR. MCGOWAN: Yes. To October 15th for the
23 commencement of closing addresses.

24 THE COMMISSIONER: All right. Thank you. And
25 subject of course to any other issues that may

1 arise in the interim requiring some further --
2 us to hear some further evidence, but that is
3 the next scheduled date at this point.

4 MR. MCGOWAN: Yes, that's correct, Mr. Commissioner.
5 To the extent additional matters arise, we will
6 attempt to deal with them in writing and if
7 necessary we'll convene further proceedings.
8 But the next scheduled date is October 15th,
9 9:30 a.m.

10 THE COMMISSIONER: Thank you. And I would like to
11 thank all counsel, including commission counsel
12 and counsel for the participants at this stage
13 for their assistance thus far in the hearings.
14 I will have more to say about that at the
15 conclusion, but we will adjourn now until the
16 15th at 9:30 a.m. Thank you.

17 THE REGISTRAR: This hearing is adjourned until
18 October 15th, 2021, at 9:30 a.m. Thank you.

19 **(PROCEEDINGS ADJOURNED AT 9:51 A.M. TO OCTOBER 15, 2021)**

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