

Commission of Inquiry into Money Laundering in British Columbia

Renewed Application for Participant Status – Ruling #33

Ruling of the Honourable Austin Cullen, Commissioner

Issued June 25, 2021

A. INTRODUCTION AND BACKGROUND

[1] This ruling addresses an application brought by Ross Alderson for leave to participate in the Commission of Inquiry into Money Laundering in British Columbia (“Inquiry” or “Commission”) under s. 11(4) of the *Public Inquiry Act*, S.B.C. 2007, c. 9 [PIA].

[2] Mr. Alderson worked as a police officer in Melbourne, Australia from 2001 to 2008. Mr. Alderson then became an employee of the British Columbia Lottery Corporation (“BCLC”) from 2008 to 2017, most recently as the Director for Anti-Money Laundering, Investigations and Intelligence, a position he held from 2015 until his resignation in 2017.

[3] Mr. Alderson first sought participant status by way of an application dated September 4, 2019. From his material submitted at that time, the nature and extent of participation he was seeking was unclear. In Ruling #1, issued September 24, 2019, I concluded that an oral hearing was required to determine whether Mr. Alderson satisfied the statutory test for participant status under the *PIA* (Ruling #1 at paras. 87-92).

[4] In Ruling #1, I summarized Mr. Alderson’s submissions in favour of his application for participant status as follows (at paras. 90-92):

90. Mr. Alderson submits that he worked in the gaming industry from 2008-2017 as a former employee of BCLC. Mr. Alderson submits that he was an investigator stationed at River Rock Casino from 2011-2012. His last role was as the Director for AML and Investigations. In this role he submits he was

responsible for overseeing and directing BCLC's Investigative, AML and Intelligence departments and was the law enforcement liaison.

91. Mr. Alderson submits that it was his conversation with Inspector Cal Chrustie of Federal Serious and Organized Crime in 2015 regarding a particular investigation that prompted an industry change, although he does not say what that change was. He submits that he also authored a number of reports and directives regarding the casino industry, many of which have now been made public through freedom of information requests.

92. Mr. Alderson submits that in 2019 he has spoken publicly on the issue of money laundering in gaming in the media. He submits that he has additional evidence to give and would like to deliver sensitive documents and information to the Commission.

[5] On October 18, 2019, the date of the oral hearing, I was advised that Mr. Alderson had withdrawn his application (see Ruling #3, issued October 25, 2019 at paras. 1-4). In February and March 2020, Mr. Alderson informed Commission counsel that he planned to relocate outside of Canada. He subsequently moved to Australia, where he continues to reside. Commission counsel requested that Mr. Alderson keep them updated on his contact information.

[6] On or about March 2, 2020, Commission counsel served Mr. Alderson with a summons that I issued requiring his attendance to testify before the Commission.

[7] Subsequent to the service of the summons, the commencement of the Commission's hearings was delayed such that no hearing was scheduled on the date Mr. Alderson had been summonsed to attend.

[8] Commission counsel emailed Mr. Alderson at the email address through which they had previously corresponded with him, advising Mr. Alderson that the commencement of the hearings had been delayed and they were seeking to reschedule his evidence.

[9] Commission counsel received no response to this email, nor did Mr. Alderson contact Commission counsel to inquire whether the hearing would proceed on the date he had originally been summonsed to attend or whether it would be rescheduled.

[10] Commission counsel made several attempts to contact Mr. Alderson using the email address and telephone number he had provided to the Commission and through third parties for the purpose of rescheduling a date for him to give evidence.

[11] Mr. Alderson did not respond to any of these communications and had no further communication with the Commission until April 2021, when the Commission received by post a redacted affidavit sworn by Mr. Alderson in March 2021. Mr. Alderson's communication and affidavit made it clear that he had been following the Commission's process and evidence. Mr. Alderson did not include any contact information which could facilitate the Commission contacting him.

[12] On May 14, 2021, Commission counsel made a statement in the course of Inquiry hearings, requesting that Mr. Alderson contact Commission counsel in order to address the issue of him providing evidence to the Commission:

The final topic that I wanted to address, Mr. Commissioner, before we adjourn at least until later in the day, has to do with Ross Alderson. You may recall, Mr. Commissioner, there's a previous overview report that has been entered in evidence relating to this witness Mr. Alderson, who has not testified. Exhibit 573.

Mr. Alderson is someone that the commission has made repeated efforts to contact. He was under a summons. He had been interviewed by commission counsel. Commission counsel fully expected that he would testify and be involved in these hearings. He left the country. He has not provided any means of us contacting him. Our commission has made repeated efforts to contact him. We have not been able to contact him using the contact information that he provided before he left Canada.

Recently Mr. Alderson has contacted us in writing. He has sent a courier delivery using a hotel beach resort return address and phone number, which gives us no ability to actually contact him back. We've likewise made efforts, including efforts in Australia, to try to contact him but to no avail. He has not provided any contact information for us to reach him.

Mr. Alderson to my understanding seems to be following some of these proceedings. Likewise there may be others who are able to contact him. And so I appreciate it's an unorthodox thing to do in a hearing, but we wanted to put on the record that if Mr. Alderson can please contact us. We reiterate our invitation that he provide us with contact information in order that we can properly address any questions and the issue of him providing evidence to the commission.

[13] On May 24, 2021, Mr. Alderson submitted this renewed application for standing through his counsel.

[14] BCLC, Mr. Alderson's former employer, has been granted standing as a participant in this Inquiry, as have several individuals employed, or formerly employed, by BCLC.

B. SUBMISSIONS

[15] In support of his application for standing, Mr. Alderson says that the evidence led through the Inquiry process has given rise to allegations of misconduct, unlawful behaviour and mental health issues attributed to him, particularly in relation to his employment at BCLC from 2008 to 2017. He says that, having prepared an affidavit in March 2021, he is prepared to assist in putting his evidence on the record to address some of these "imputations" as well as "the related facts."

[16] Mr. Alderson reiterates that, as the former BCLC Director for Anti-Money Laundering, Investigations and Intelligence, he has "extensive knowledge of the gambling industry" and that, as the Inquiry has evolved, it has become evident he is a "key witness with intimate knowledge of events between 2009-2017" given the number of public exhibits and media articles that make reference to him.

[17] Mr. Alderson submits that, given the circumstances and evidence described above, he satisfies the test for participant status under the *PIA*, as his rights and interests may be affected by the findings of the Commission. As such, Mr. Alderson says his participation will further the conduct of the Inquiry and contribute to its fairness.

C. LAW

[18] While the Commission's Rules for standing set a deadline for standing applications of September 6, 2019, the Rules also give me discretion to receive and consider standing applications submitted after that date. To date, I have considered a number of standing applications received after the initial deadline and consider that it is similarly appropriate that I do so in this instance.

[19] As I noted in Ruling #5, should it become apparent that an individual or potential witness's rights or interests may be affected by findings of the Inquiry, they may seek

leave to apply, or reapply, as the case may be, for participant status, having regard to the statutory provisions of the *PIA* and the related considerations (at para. 22).

[20] I reviewed the mandate of the Commission and the relevant law in respect of applications to participate in Ruling #1. The statutory provisions that govern applications for participant status are ss. 11(4)(a)-(c) of the *PIA*. Those sections read as follows:

11(4) On receiving an application under subsection (3), a commission may accept the applicant as a participant after considering all of the following:

- (a) whether, and to what extent, the person's interests may be affected by the findings of the commission;
- (b) whether the person's participation would further the conduct of the inquiry;
- (c) whether the person's participation would contribute to the fairness of the inquiry.

[21] The relevant considerations in determining whether to grant participant status include (Ruling #1 at para. 11):

- a. the nature and extent of the applicant's rights or interest;
- b. why standing is necessary to protect or advance the applicant's rights or interest;
- c. whether the applicant faces the possibility of adverse comment or criticism with respect to its conduct;
- d. how the applicant intends to participate, and how this approach will assist the Commission in fulfilling its mandate;
- e. whether and how the applicant's participation will contribute to the thoroughness and fairness of process;
- f. whether the applicant has expertise and experience relevant to the Commission's work;
- g. whether and to what extent the applicant's perspective or interest overlaps or duplicates other applicants'; and
- h. whether the applicant may participate in another capacity — for example, as a witness who may testify — instead of being granted formal standing.

[22] In assessing Mr. Alderson's application, I considered his submissions and evidence that has been led before the Commission to assess whether his rights and interests might be affected. Consideration of whether an applicant's participation will contribute to the fairness of the process requires attention to the non-exhaustive list of

factors outlined in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817.

D. ANALYSIS AND CONCLUSION

[23] I accept Mr. Alderson's submissions that — given the amount of evidence led in the Inquiry to date which makes reference to him or events involving him — his legal, reputational and/or privacy interests may be impacted by the findings of the Commission in respect of his acts and omissions in the gaming industry between 2008 and 2017.

[24] To date, the Commission has heard material evidence regarding Mr. Alderson's involvement in the gaming industry that may adversely impact on his rights and interests, namely, that he:

- a. leaked confidential BCLC information to media, contrary to the terms of his employment;
- b. interfered with and undermined BCLC anti-money laundering measures relating to chip liability;
- c. interfered with BCLC anti-money laundering measures involving interviewing and sanctioning patrons;
- d. failed to respond to concerns about the source of cash entering casinos raised by BCLC investigators;
- e. failed to act on suggestions from BCLC to stem the flow of suspicious cash into casinos;
- f. hindered information sharing between BCLC and the Gaming Policy and Enforcement Branch (GPEB); and
- g. falsely accused Mr. Kroeker of having directed BCLC staff to "ease up" on cash conditions.

[25] As noted by Mr. Alderson in his submissions, the Commission has also heard evidence that Mr. Alderson sought to voice his concerns regarding suspected illicit cash entering the casinos by contacting both the RCMP and the media, including former Supt. Calvin Chrustie of the RCMP Federal Serious and Organized Crime unit.

[26] The above examples are a few of the many areas in which Mr. Alderson's name has arisen in evidence that, when considered in context, might adversely affect his legal, reputational or privacy interests. I make no findings whatsoever at this stage as to whether any of this evidence ought to be accepted or, if accepted, whether any of this evidence reflects poorly on Mr. Alderson. I set out this evidence to demonstrate that evidence has been led before the Commission that, in my view, Mr. Alderson ought to be permitted to respond to, should he wish.

[27] In my view, consideration of the *Baker* factors and those under the *PIA* would suggest Mr. Alderson is owed a degree of procedural fairness and the opportunity to respond to these allegations and facts in some fashion, whether by *viva voce* evidence or otherwise. I agree with Mr. Alderson that his unique perspective and experiences during his employment with BCLC from 2008 to 2017 are worthy of further exploration in evidence.

[28] In these circumstances, I am satisfied that granting Mr. Alderson limited participant status will further the conduct of the Inquiry and contribute to its fairness in the gaming and horse racing sector. Accordingly, I grant Mr. Alderson limited standing in the gaming and horse racing sector.

[29] Mr. Alderson must ensure that his contribution does not duplicate that of other participants in the gaming and horse racing sector, including BCLC. His status is limited to matters involving consideration of his personal conduct to the degree his position diverges from that of BCLC, and to responding to evidence that might adversely affect his legal, reputational or privacy interests.

[30] The Commission has now concluded its scheduled hearings. It is possible that one or more additional hearing days will be required. Participants will be making closing

submissions soon. In these circumstances, given the timing of Mr. Alderson re-connecting with the Commission and his seeking and obtaining participant status, his involvement will need to unfold with considerable efficiency in order to avoid creating any undue delay in the Commission process.

[31] Without determining whether I have jurisdiction under the *PIA* to make the additional orders sought by Mr. Alderson, I decline to make any orders at this time respecting his written requests for financial assistance, or with respect to any other costs associated with his participation in the Inquiry.

A handwritten signature in cursive script, appearing to read "Cullen".

Commissioner Austin F. Cullen