

**CULLEN COMMISSION OF INQUIRY INTO
MONEY LAUNDERING IN BRITISH COLUMBIA**

**OPENING SUBMISSION
GREAT CANADIAN GAMING CORPORATION
and its subsidiaries**

**Mark L. Skwarok
Melanie J. Harmer
McMillan LLP, Counsel for Great Canadian Gaming Corporation**

1500 – 1055 West Georgia Street
Vancouver, BC V6E 4N7

Telephone: 604-689-9111
Email: mark.skwarok@mcmillan.ca
melanie.harmer@mcmillan.ca

Introduction

1. Great Canadian Gaming Corporation and its subsidiaries (“Great Canadian”) submit that the Commission’s analysis of money laundering in British Columbia, as it relates to Great Canadian, should be viewed in two different contexts. First, the historical evolution of the gaming industry and anti-money laundering (“AML”) regime in British Columbia. Second, Great Canadian’s prescribed powers, duties, and functions in the gaming industry’s AML regime. Great Canadian anticipates that the evidence presented to this Commission will demonstrate that many public criticisms that have been made about Great Canadian’s conduct and actions are factually unfounded or have been unfairly overstated. Great Canadian has achieved a very high standard of compliance with AML requirements and, in many cases, exceeded those requirements.

A. The Historical Evolution of Gaming and AML in British Columbia

2. Any investigation into money laundering in or through British Columbia’s casinos must be undertaken with an understanding of the historical evolution of gaming in British Columbia and the continuing development of the AML regime. In conducting this inquiry, it is submitted that the Commission should be cautious of judging any gaming industry participant’s conduct through hindsight.

3. Great Canadian is a British Columbia corporation with operating subsidiaries in British Columbia, Ontario, Nova Scotia, and New Brunswick, and it has a 40-year history as part of the evolution of the gaming industry in British Columbia. Great Canadian was the first gaming facility operator in British Columbia and it is today the largest gaming service provider in Canada.

4. It is only in recent years that significant concerns have arisen regarding the risks of having substantial amounts of cash entering into casinos. These increased concerns coincided with a period of very rapid growth in the gaming industry in British Columbia, increased betting limits, and more gaming offerings. As an industry that has historically been a primarily cash-based business, it is now recognized that there is an enhanced risk that money launderers may try to use casinos for criminal purposes. However, these concerns regarding cash must be

understood in light of the historical rules regarding cash and gaming. Gaming has always been predominately a cash-based business. No credit is available and historically customers either brought cash with them or obtained cash from bank machines located outside or off the casino floor.

5. Since the first casinos opened in British Columbia, betting limits have steadily risen and the increase in betting limits has increased the volume of cash being brought into casinos. In a cash-based business, a patron who brings in large amounts of cash into the casino and gambles is not, in and of itself, an unusual transaction. There are patrons who may win or lose large amounts, so large cash buy-ins do not, in and of themselves, raise concerns regarding possible money laundering.

B. Great Canadian's Role in the AML Regime

6. Gaming is one of the most highly regulated industries in the country and, as highlighted in the Commission's terms of reference report, *Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos conducted for the Attorney General of British Columbia*, Peter M. German, Q.C., March 31, 2018 (the "German Report") at para. 273, there is arguably greater emphasis placed on compliance in the casino industry than in virtually any other financial industry. In the words of the German Report at para. 26, Great Canadian is subject to a "dizzying array of regulations and policies".

7. In British Columbia, Great Canadian is regulated by the Gaming Policy Enforcement Branch ("GPEB") and must abide by the policies and directives of the British Columbia Lottery Corporation ("BCLC"). Great Canadian is also a publicly-traded company, which means it is required to comply with all of the requirements of the Toronto Stock Exchange and the provincial securities commissions. As a result of also being licensed to provide casino operational services in Ontario, Nova Scotia, and New Brunswick, Great Canadian complies with regulators in three other provinces in addition to British Columbia. One of the consequences of being so highly regulated is that Great Canadian's commitment to the integrity of gaming is fundamental to its continued existence. If any of the regulators described above determine that Great Canadian is not living up to the standards that have been set, Great Canadian would be unable to continue operating.

8. Given the regulatory environment, it is not surprising that Great Canadian spends millions of dollars annually on compliance activities. This includes having a dedicated compliance department and compliance programs in each jurisdiction in which it operates. Great Canadian has sought to hire the best people to oversee its compliance activities, including specific AML experts, and the most senior officers of Great Canadian are charged with compliance oversight, including AML compliance.

i. The Five Entities in the AML Regime

9. The success, or lack thereof, of the AML regime in British Columbia is dependent on each of five distinct entities doing their job and fulfilling their responsibilities. These entities consist of the police, the Financial Transactions and Reports Analysis Centre of Canada (“FINTRAC”), GPEB, BCLC, and service providers. If any one party in this AML system does not fulfill its responsibilities, then the AML regime as a whole will be unsuccessful.

a. The Police

10. The police are responsible for investigating potential money laundering activities or other criminal activity associated with casinos in British Columbia. If criminality is found to be taking place, then the police are responsible for recommending to Crown Counsel that appropriate charges be laid under the *Criminal Code*.

b. FINTRAC

11. FINTRAC is Canada’s financial intelligence unit and is responsible for reviewing all reports received to identify potential money laundering activity, and reporting this activity to the appropriate law enforcement agencies. FINTRAC regularly visits and audits service providers like Great Canadian.

c. GPEB

12. Under the *Gaming Control Act*, S.B.C. 2002, c. 14, GPEB has responsibility for ensuring the integrity of gaming in British Columbia. Service providers, such as Great Canadian, are licensed and regulated by GPEB. Each gaming worker employed by Great Canadian is subject to a background investigation by GPEB and then registered as a gaming worker if approved by GPEB. As part of its licensing, Great Canadian must follow all directives issued by

GPEB and GPEB has the power to refuse, suspend, or cancel the registration of any gaming worker or of Great Canadian itself. GPEB also regularly visits and audits Great Canadian.

13. As the provincial regulator of casino gaming, GPEB receives direct reporting from Great Canadian of all unusual financial transactions (described in greater detail below in paragraphs 20 and 21) via what are known as Section 86 Reports, referencing section 86 of the *Gaming Control Act*. Section 86 Reports include, but are not limited to, the information in every Unusual Financial Transaction Report filed by Great Canadian with BCLC. Under the *Gaming Control Act*, GPEB is the entity that is charged with investigating allegations of misconduct occurring in casinos. Its investigators have special constable status and they work either independently or in conjunction with the police.

d. BCLC

14. Under the *Criminal Code*, only the government of a province may “conduct and manage” lottery schemes. In British Columbia pursuant to the *Gaming Control Act*, that power and responsibility has been delegated to BCLC. It is BCLC that conducts and manages gaming in British Columbia, and it enters into contracts with service providers who provide operational services for each gaming facility. These contracts are known as “Operational Service Agreements” (“OSAs”). The OSAs and BCLC’s standards, policies, and procedures are detailed and prescriptive in what Great Canadian must do as a service provider, including with respect to AML compliance and reporting. BCLC regularly audits Great Canadian and also hires third party experts to conduct comprehensive audits.

15. Under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17 (“*PCMLTFA*”), BCLC is the designated reporting entity to FINTRAC. The reports that BCLC receives from service providers and those that BCLC files with FINTRAC are described in greater detail below.

16. BCLC has investigators on site at each of Great Canadian’s properties, although their hours on duty vary, and Great Canadian provides offices for the exclusive use of these investigators. Their job is to facilitate and monitor compliance with AML reporting requirements. BCLC receives immediate notification of reports of unusual financial transactions

from Great Canadian. As a consequence, BCLC was and is aware of the size and frequency of large cash buy-ins on a near contemporaneous basis.

e. Service Providers

17. Great Canadian has a prescribed role to play in the AML regime. Service providers, such as Great Canadian, are responsible for identifying certain types of activities and reporting them to BCLC and/or GPEB. Great Canadian is not responsible for investigating criminal conduct, including money laundering. It is neither a law enforcement agency nor a regulator. Its obligation is to report certain financial transactions to persons having the training and authority to perform such investigations.

18. Great Canadian participates in BCLC's reporting to FINTRAC by identifying and reporting both Large Cash Transactions ("LCTs") and Unusual Financial Transactions ("UFTs") to BCLC. Great Canadian is also required to prepare Foreign Exchange Reports (for the exchange of foreign currency of \$10,000 CDN equivalent or more) and Casino Disbursement Reports (for cash outs or jackpots of \$10,000 or more) in a similar manner as described for LCT Reports below.

19. An LCT Report is completed by Great Canadian whenever Great Canadian receives an amount of \$10,000 or more in cash in the course of a single transaction, or whenever there are a series of transactions totaling \$10,000 or more in cash over a 24-hour period. One of the requirements for completing an LCT Report is that a patron is required to provide government issued identification and various personal details, all of which are reported to BCLC (and in turn, FINTRAC) as part of the LCT Report. If the patron does not provide all of the necessary information, Great Canadian refuses the buy-in transaction. For LCT Reports, Great Canadian enters transactions into the FINTRAC entry screen in the FINTRAC Module of BCLC's iTRAK system. The iTRAK system then creates appropriate records for forwarding to FINTRAC by BCLC.

20. A UFT Report is completed by Great Canadian whenever there are reasonable grounds for Great Canadian to suspect that a transaction could be related to a money laundering or terrorist activity financing offence. Great Canadian's employees are directed by BCLC to use a list of 43 indicators published by BCLC, in conjunction with FINTRAC's guidelines, in

determining whether a transaction should be reported as a UFT to BCLC. Some examples of *indicia* from FINTRAC's publicly available list of indicators for casinos include: a patron requesting a winning cheque in a third party's name; or a client requesting cheques that are not for gaming winnings.

21. A UFT may or may not be reportable by BCLC to FINTRAC as a Suspicious Transaction Report ("STR") under the *PCMLTFA*. Great Canadian's UFT Reports are entered into the iTRAK system and reviewed by BCLC. BCLC has access to more comprehensive intelligence than Great Canadian does about the subject matter of many UFTs. This may include related information reported by other casinos, which Great Canadian is not privy to. BCLC also has an information sharing agreement with police. BCLC reviews all available information and determines whether to file an STR with FINTRAC.

ii. There are Limits on Great Canadian's Role in the AML Regime

22. It is Great Canadian's submission that it fulfilled its role in the AML regime. However, for the reasons described above, that role is limited. To the extent that the Commission may determine that money laundering has occurred in the gaming sector, Great Canadian anticipates that the evidence that will be heard by the Commission will demonstrate that Great Canadian took all appropriate steps and actions in satisfying its AML obligations. If errors were made by Great Canadian in identifying and reporting transactions, they were statistically few in number, of a minor nature, and were the result of inadvertent human errors. Indeed, in many cases, Great Canadian went above and beyond its obligations by directly reporting certain suspect activities or transactions to the police, providing detailed surveillance videos, and in assisting BCLC, GPEB, and police investigations, however it could.

23. It is evident from the AML regime described above that Great Canadian does not (and nor should it) have the necessary investigative powers or authority to determine whether patrons are bringing in legitimate funds or proceeds of crime. These powers and responsibilities are exercised by others in the AML regime.

24. In assessing whether Great Canadian fulfilled its responsibility to identify and report transactions, it is important to emphasize that between 2014 and 2019, for *only* the River Rock Casino Resort, Great Canadian filed approximately 125,000 LCT Reports, 6,000 UFT

Reports, and 18,000 Section 86 Reports (recognizing that not all Section 86 Reports relate to financial transactions). These reports, and the reports filed by Great Canadian for its other properties, were variously directed to BCLC, GPEB, FINTRAC, and the police. Of course, the fact that a report is prepared does not mean that money laundering or other criminal activity is necessarily occurring.

iii. Patrons Cannot Obtain “Cheques for Cash” in this AML Regime

25. It has been suggested in recent years that patrons of Great Canadian laundered money by buying chips with large amounts of cash, gambling either for short amounts of time or making only small wagers, and then cashing out and receiving a cheque from the casino for all the chips cashed in. This did not happen.

26. In 2017, BCLC commissioned Ernst & Young LLP (“Ernst & Young”) to undertake a comprehensive analysis of cheques issued by River Rock Casino Resort and the payees’ pattern of play for the three year period from January 1, 2014 through to December 31, 2016. This included a review of every single cheque of \$10,000 or greater related to table-game play issued by the casino during this time period (a total of 2,031 cheques). The purpose of the review was to identify instances of cheques issued to patrons that were not supported by the patron’s gaming activity. Ernst & Young’s report issued in February 2019 led BCLC to conclude that there was “no systemic pattern of money-laundering activity related to cheques being issued by River Rock Casino during the three-year period of 2014 to 2016”. To the extent that Ernst & Young’s review identified any errors, they were very few in number and administrative in nature. Had substantive problems with Great Canadian’s AML compliance been uncovered in this atmosphere of heightened sensitivity to the risks of casinos being used for money laundering, Great Canadian’s regulators would undoubtedly have immediately taken action.

iv. Great Canadian’s Response to AML Challenges

27. While Great Canadian’s role in the AML regime is limited to what is prescribed, it has in many instances sought to go above and beyond its narrow role in identifying and reporting transactions by implementing new procedures to respond to the rapid growth and evolution of gaming in British Columbia. It has taken numerous steps to combat money laundering, both on its own as well as in cooperation with BCLC, GPEB, and the police. Great

Canadian has further fully cooperated with several independent AML audits and reviews, the most recent being the German Report and the Ernst & Young review referenced herein. Great Canadian has also proactively brought suspicious activities to the attention of the police. As one example, it was Great Canadian's Surveillance Team's diligence in acquiring and presenting information to BCLC that helped the RCMP's investigation of Paul King Jin (whose activities in various sectors have since received substantial media attention).

28. Great Canadian has consistently supported and encouraged the use of technological solutions, such as licence plate recognition technology, at its facilities. This advanced technology, introduced by BCLC, assists the police in identifying the location of certain individuals, as well as assisting the casino in refusing entry to self-excluded, trespassed, or banned patrons.

29. As another example, in 2012, Great Canadian took the initiative to identify and report suspected loansharking activity taking place within and around the River Rock Casino Resort, which resulted in several players being barred by BCLC and reported to the police. While Great Canadian understands that no criminal charges were pursued in relation to those events, certain of the individuals who were identified in 2012 have been subsequently associated with the failed E-Pirate investigation and the unlicensed money services business Silver International Investment Ltd., as well as illegal casinos operating in the Richmond area.

30. The police's recognition of Great Canadian's efforts was demonstrated in 2012 when the Officer in Charge of the Richmond RCMP Detachment awarded River Rock Casino's Surveillance Team with a Certificate of Appreciation in recognition of its "continued professional and timely assistance with criminal investigations". Similar recognition was again given to the River Rock Casino Surveillance Team when the Richmond RCMP awarded a second Certificate of Appreciation in recognition of the Surveillance Team's "outstanding assistance conducting surveillance reviews for members beyond the scope of [its] regular duties".

31. In 2014, Great Canadian upgraded to new state of the art surveillance systems at River Rock Casino Resort. The enhanced digital system has supported Great Canadian's AML efforts and has enabled it to provide greater assistance to the police. As an example of

technology assisting with AML efforts, in 2016, Great Canadian was able to identify cash drop-offs from suspected loan sharks or associates in its parking lots and then track the associated patrons to the casino where the patrons' buy-ins were refused pursuant to an internal Great Canadian directive.

32. Also in 2016, Great Canadian became aware of and reported suspicions of illegal casinos operating in Richmond to BCLC and the RCMP.

33. Great Canadian's ongoing desire to work cooperatively with the police was demonstrated in a letter that its Chief Operating Officer wrote to the then Minister of Public Safety and Solicitor General in June 2017, wherein Great Canadian expressed its gratitude for recent actions conducted by the Combined Forces Special Enforcement Unit and Joint Illegal Gaming Investigation Team. Great Canadian reiterated to the Minister its continuing commitment to assisting those entities.

34. Great Canadian has worked alone and with BCLC to conduct increased due diligence on customers. This has included in July 2017, as part of new FINTRAC and BCLC requirements, implementing additional "Reasonable Measures" requirements as directed by BCLC. In January 2018, at the direction of BCLC and pursuant to the first recommendations made in the German Report, Great Canadian implemented additional Source of Funds declarations and a requirement for players to provide financial institution receipts for large cash buy-ins. More recently, Great Canadian has implemented its own background searches using an open source search system that allows it to conduct its own searches on unknown customers producing \$10,000 or more in cash in real time prior to accepting buy-ins.

35. Great Canadian's Board of Directors has directed that Great Canadian's management structure be further developed to emphasize and enhance AML compliance. Great Canadian's new management structure has its President, Strategic Growth, as the Chief Compliance Officer reporting directly to the Board of Directors, which includes the President and Chief Executive Officer. The reorganized management structure also includes an Executive Vice-President of Compliance, Vice-Presidents of Compliance in British Columbia, Ontario, and Atlantic Regions, and an Executive Director of AML, who has responsibility for ensuring AML

compliance at all Great Canadian properties. Other roles developed to support AML compliance include an AML Analyst, an AML Reporting Coordinator, and additional LCT clerks.

36. Great Canadian's focus on AML compliance is further evidenced by its creation of an AML Steering Committee (comprised of key executives in the company's operations, legal, compliance, and privacy departments), an AML Champions Committee (comprised of subject matter experts for each region), and a national AML Operations Management Committee. These governance and leadership restructurings have been coupled with increased training for gaming employees in the form of semi-annual AML refresher training, which is in addition to annual mandatory BCLC AML training, and webinar training for employees on source of funds declarations and reasonable measures forms to educate front-line employees on completing required reports accurately. Outside of the gaming sphere, Great Canadian has taken the initiative to implement AML policies for all of its hospitality and food and beverage operations. Non-gaming employees have been trained to identify signs or indicators of potential money laundering and Great Canadian proactively submits Voluntary Information Records to FINTRAC whenever there are grounds to suspect a non-gaming transaction may be associated with money laundering.

Conclusion

37. In conducting its inquiry, it may be tempting for the Commission to look back with the benefit of hindsight and say that service providers like Great Canadian could have done more, and sooner, to combat money laundering in the gaming sector. However, we anticipate that the evidence tendered in this inquiry will show that Great Canadian upheld its obligations in an evolving AML regime, and in many instances went beyond the requirements that applied to it based upon the prescribed rules in existence at any given time.

DATED: February 18, 2020.

McMILLAN LLP



**Mark L. Skwarok
Counsel for Great Canadian
Gaming Corporation**



**Melanie J. Harmer
Counsel for Great Canadian
Gaming Corporation**