



GATEWAY
CASINOS & ENTERTAINMENT LIMITED

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**Commission of Inquiry into Money Laundering
in British Columbia**

Opening Statement - February 21, 2020

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1. Thank you for the opportunity to provide a written statement on behalf of Gateway Casinos & Entertainment Limited (**Gateway**), in advance of the opening of public hearings on February 24, 2020.
2. Gateway has standing as a participant with respect to the Commission's inquiry relating to gaming and horseracing. In the September 24, 2019 ruling on participant standing, Commissioner Cullen determined that,

.... Gateway should ... be provided the opportunity to participate ... to address issues arising from the First and Second German Reports, to the extent those reports make recommendations that affect Gateway's interests and/or touch upon Gateway's role with respect to prevention of money laundering in the gaming sector....¹
3. Gateway is one of three main casino service providers to the British Columbia Lottery Corporation (**BCLC**) in British Columbia. Gateway operates three of the largest gaming and entertainment facilities in the Lower Mainland: Grand Villa Casino in Burnaby, Starlight Casino in New Westminster, and Cascades Casino in Langley. Gateway operates another 11 gaming sites across the province, including in Metro Vancouver, Vancouver Island and the Okanagan. Gateway has approximately 3900 employees in British Columbia, the bulk of whom are registered gaming workers.
4. Gateway has invested heavily in the development of world-class gaming and entertainment facilities in British Columbia, particularly over the past 10 years. That investment includes ongoing development of robust internal systems to maintain the integrity of the gaming services provided to BCLC as the risks and challenges facing the gaming sector themselves have evolved – at all times in accordance with the laws, regulations, policies and procedures applicable to casino service providers in British Columbia.
5. Gateway's systems include the collection, documentation and reporting to BCLC of information collected on the gaming floor in compliance with obligations under the

¹ 24 September 2019 - Participants Applications – Ruling #1, para. 68:
<https://cullencommission.ca/files/ParticipantsApplicationsRuling01.pdf>

Gaming Control Act and the regulations thereunder, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the “*Proceeds of Crime Act*”), and BCLC standards and policies. Gateway has also implemented and maintains written internal policies, such as a whistleblower policy, to enable employees to safely report issues of concern observed at Gateway's facilities.

6. In November 2019, Gateway met with Commission counsel at Grand Villa Casino Burnaby to view the surveillance and reporting systems in action. Commission counsel were also invited into the cash cages at Grand Villa Casino to review and discuss player and cash transaction tracking systems in place at Gateway's facility, and the VIP area to review protocols and procedures for serving VIP patrons. Gateway trusts that this "behind-the-scenes" look at Gateway's systems provided insight into the sophisticated, integrated and robust systems that Gateway has developed (in consultation with BCLC where appropriate) to protect the integrity of gaming in British Columbia. Gateway looks forward to providing further information to the Commission over the course of the public hearing phase.
7. Gateway has a vested interest in there being public confidence in the integrity of casino gaming in British Columbia. Gateway believes that the Commissioner will ultimately conclude that Gateway has worked and continues to work with BCLC and the Gaming Policy Enforcement Branch to document, report and act upon concerns about money laundering activities related to casino gaming as they were identified in real-time.
8. Gateway is operated by professionals with years of experience in the gaming industry in British Columbia, across Canada, and internationally. Gateway has invested heavily in personnel, training and technology with respect to compliance, surveillance and security activities. Gateway has a positive reputation in the industry of operating in compliance with applicable laws and regulations, and of following anti-money laundering requirements for service providers.² Gateway recognizes that anti-money laundering is a shared responsibility among service providers, BCLC and provincial and federal regulatory and

² Peter German, Q.C., *Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos conducted for the Attorney General of British Columbia*, March 31, 2018 para. 260A.

enforcement entities. Gateway has done its best to discharge its own responsibilities in this regard.

The Future of Gaming in British Columbia

9. On December 12, 2019, Attorney General Eby announced the creation of the Independent Gambling Control Office, which will be established through amendments to the *Gaming Control Act* expected to come into force in the spring of 2021. The Attorney General also announced that "[b]ased on German's recommendations, B.C. will also transform the way in which it regulates gambling by establishing a more flexible regulatory model that can adapt as advancing technology transforms the sector."³
10. Shortly before this announcement the Commission asked participants for views and responses on the recommendations made in the reports commissioned by the provincial government and referred to in the Commission's terms of reference (the **TOR Reports**). The Commission shared these responses among all participants in February 2020. In Gateway's view, the responses provided by participants in the gaming sector offer a framework for the Commission to engage with these participants on some of the important policy questions underpinning the new "more flexible regulatory model" to be introduced in British Columbia in 2021.

Transition to a standards-based model of regulation

11. Prescriptive regulations have traditionally been the most popular form of regulation. Such regulations specifically state what a person is not to do, and are intended to leave no room for interpretation. Outcome-based regulations have increased in acceptance starting in the 1980s. This shift in the design of regulations was driven by a need to lessen the rigidity of regulations and compliance burdens, while promoting innovation. It was thought that by creating more flexible regulations, regulated entities would have the opportunity to

³ December 11, 2019, "Province transitions to a new gambling regulator"
<https://news.gov.bc.ca/releases/2019AG0128-002393>

discover better technologies or processes that complied with the regulatory objective. Various forms of outcome-based regulations have since been adopted in Canada and elsewhere for the regulation of the financial sector, air and water quality, building and fire safety, energy efficiency, food safety, forest practices, energy infrastructure safety, and workplace safety. In more recent years, such regulatory regimes have been applied to the gaming industry in some jurisdictions, including in the UK and most notably in Canada in the province of Ontario.

12. Recommendations 24-26 in Dr. German's first report, "*Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos*" propose the transition of the regulatory model in British Columbia to a "standards-based" approach, similar to the model administered by the Alcohol and Gaming Commission of Ontario. In Gateway's view, this approach has a number of key benefits that support the integrity of the gaming industry in general:

- Risk-based standards create a shared understanding of how particular standards are designed to mitigate risk;
- Risk-based standards provide clarity for service providers about the compliance markers that must be met;
- Risk-based standards ensure service providers have the flexibility to respond to the specific risks in each gaming environment to meet the standards imposed by the regulator. This means service providers can allocate resources and change processes efficiently and effectively to support their own operations;
- Risk-based standards encourage service providers to properly understand their risks and be accountable for failures to meet the standards imposed by the regulator; and
- Risk-based standards permit service providers to adopt new technologies and take advantage of new opportunities to meet risk in a more flexible way.

13. A transition to a standards-based approach to regulation is in line with contemporary developments in thinking about regulatory regimes generally. A focus on outcomes, coupled with robust penalties and incentives to ensure those outcomes are achieved, is far more likely to attain the public good upon which a regulatory regime is founded than a process-focused prescriptive regime. Standards-based regulations allow for flexibility, creativity and efficiency.
14. The Commission is well placed to call evidence about the Ontario standards-based gaming model, and to obtain input from all participants about the aspects of that system that could benefit the British Columbia gaming industry, particularly with respect to the collection, reporting and investigation of suspicious behaviour in casinos.

Delineating roles to strengthen relationships

15. Maintaining strong and effective relationships between all participants in the gaming ecosystem (the regulator, BCLC, and the other service providers) has been and continues to be a priority for Gateway. Laws, regulations or policies that create clear roles and responsibilities for the regulator and BCLC will provide clarity to service providers and foster effective compliance with regulatory standards.
16. As with all service providers of casino gaming, Gateway provides gaming services to BCLC pursuant to a negotiated Operating Service Agreement. BCLC retains ownership of all aspects of gaming, including the physical chips and cash involved in gaming, and all of the revenue earned from gaming at a casino. BCLC is also the ultimate operator of all casinos in British Columbia through its "conduct and manage" mandate, although it has contracted out to service providers responsibility for its operations of casinos on a day-to-day basis.
17. BCLC monitors gaming service provider compliance with the *Gaming Control Act*, its regulations and BCLC standards, policies and procedures. Under the Operating Service Agreements, BCLC also has the power to issue instructions and directions, step in and operate gaming facilities, apply increased monitoring and audit rules, suspend a gaming

service provider at a site, terminate an Operating Service Agreement, or exercise other contractual rights and remedies as against a gaming service provider.

18. Many of the recommendations the Commissioner may make at the conclusion of the Inquiry have the potential to impact upon the contractual obligations of gaming service providers and BCLC under the Operating Service Agreements, particularly the economics underlying these agreements. As a general matter, Gateway takes the view that additional costs to the operation of casino gaming occasioned by changes to the regulatory and compliance regimes should be paid for out of provincial gaming revenue.

Balancing competing interests in the collection and disclosure of information to FINTRAC

19. Gateway's "front line" position as the casino operator results in the collection of significant amounts of information relating to patron activity at casinos. Service providers deliver that information to BCLC in order to permit BCLC to fulfil its ultimate reporting role to FINTRAC and to permit BCLC, the Gaming Policy Enforcement Branch and other relevant government agencies to perform their intelligence, enforcement and prosecutorial functions.
20. At present, where suspicious behaviour is observed at a casino, service providers complete Unusual Financial Transaction Reports and submit those reports to BCLC through its iTRAK system. BCLC then evaluates the information provided, where applicable aggregates it with other available information not available to the service provider, and submits a Suspicious Transaction Report to FINTRAC based on its assessment of the information.
21. Recommendations 5, 7, 8 and 11 of the *Dirty Money* report propose to transfer the responsibility to report to FINTRAC directly to service providers (though BCLC would retain the ability to make corporate Suspicious Transaction Reports). Similar recommendations were made in the November 2018 report of the federal Standing Committee on Finance in its five-year review of the *Proceeds of Crime Act*, "Confronting Money Laundering and Terrorist Financing: Moving Canada Forward."

22. Gateway supports the recommendation that Suspicious Transaction Reports be completed by service providers and submitted directly to FINTRAC, copied to BCLC. Gateway has experience doing so in Ontario. This structure aligns with the standards-based approach to regulation by encouraging service providers to take responsibility for and invest in the process of compliance with the *Proceeds of Crime Act*. Under a standards-based approach to regulation, service providers are encouraged to develop the necessary capacity to assess risk and perform due diligence on suspicious transactions and allocate resources to effectively meet the standards imposed by the regulator.
23. However, the collection and disclosure of information directly to FINTRAC by service providers must be reconciled with BCLC's "conduct and manage" mandate, and the potential benefit measured against the significant resources BCLC has already invested in developing its FINTRAC compliance program. Dr. German's recommendations must also be balanced with patrons' privacy rights to the protection of their highly sensitive personal information.

Conclusion

24. It is Gateway's view that the Commission is well positioned, with the background and insight gained through the TOR Reports and the study commission, and with the input of engaged participants in the Inquiry, to advance the consideration of the three overarching issues discussed above. The Commission's recommendations on these issues may be instrumental in shaping the direction of the new gaming regulation model to be introduced next year.
25. Gateway once again thanks the Commissioner for the opportunity to participate in these proceedings. Should the Commissioner have any questions regarding these submissions, we would be pleased to provide answers either in writing or in person. We look forward to participating in the hearings, and providing information to commission counsel on an ongoing basis to assist in their work. We expect to have more detailed submissions at the



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close of hearings, particularly as to the language of recommendations that the Commissioner may consider making.

Dated at Vancouver, British Columbia, February 21, 2019

A handwritten signature in blue ink, appearing to read "David Gruber", written over a horizontal line.

David Gruber

Laura L. Bevan

Meg Gaily

Counsel to Gateway Casinos & Entertainment Limited