

Commission of Inquiry into Money Laundering In British Columbia

CLOSING SUBMISSIONS OF THE PARTICIPANT GATEWAY CASINOS & ENTERTAINMENT LIMITED

1. Gateway Casinos & Entertainment Limited (**Gateway**) received an individual grant of standing to participate in matters related to the gaming sector in Ruling #1, issued September 14, 2019.¹ These submissions respond to the following issues insofar as they relate to Gateway:

- a. the risk of unjustified reputational damage to the gaming industry because of the biases inherent in the evidence before the Commissioner;
- b. the limited present risk of traditional money laundering in BC casinos; and
- c. Gateway's role as a service provider to BCLC and a registrant regulated by GPEB, and whether Gateway ought to have taken different steps in the years 2010-2018 in response to an increase in large cash transactions.

2. While these submissions do not comment on specific recommendations that the Commissioner may make to government, the Commissioner's recommendations should have as their focus appropriate collaboration and information sharing between and among all industry participants, particularly law enforcement. The evidence is that the risks of money laundering and proceeds of crime change over time, and the gaming industry must have the flexibility to respond appropriately to

¹ Ruling #1, paras. 66-69.

those risks based on a shared understanding of each participant's roles, responsibilities and processes.

3. Gateway is one of three main gaming service providers to the British Columbia Lottery Corporation (**BCLC**). It operates three of the largest gaming and entertainment facilities in the Lower Mainland, including the Grand Villa casino in Burnaby, and the Starlight Casino in New Westminster. Gateway operates an additional 11 gaming sites elsewhere in British Columbia, as well as facilities in Alberta and Ontario.

4. In its capacity as a service provider to BCLC, Gateway provides well-paying employment to thousands of British Columbians, the majority of whom are registered as gaming workers by the Gaming Policy Enforcement Branch (**GPEB**).

5. Although the gaming sector received more attention during this inquiry than any other sector falling within the Terms of Reference, relatively little of that evidence was specific to Gateway or the facilities it operates on behalf of BCLC. What evidence there was about the facilities now operated by Gateway was largely related to the period before the fall of 2010, when those facilities were under different management and ownership by a similarly named, but different company.²

6. Gateway submits that the relative paucity of specific evidence led about its operations is testament its strong culture of compliance with applicable legislation, regulation and policy. To the extent there was specific evidence tendered about the operation of Gateway's facilities, that evidence will be addressed in these closing submissions.

² Exhibit 1047, Overview Report: Gateway Casinos & Entertainment Inc. and Gateway Casinos & Entertainment Limited.

7. As a major industry participant, Gateway's first focus in these submissions will be on what it says is the approach the Commissioner should take to deliberation and the writing of the final report as it affects the reputation of the gaming sector of the economy more generally.

The risk of unjustified damage to the reputation of the gaming industry in BC

8. The Commissioner should consider while crafting the final report that the gaming industry is highly susceptible to being the object of bias, particularly unconscious bias, relating to race, class, religion and other behavioural or cultural norms.³ The gaming sector is perceived by many members of the public in British Columbia as being an “out-group activity”, or a “vice industry”, which can lead to a biased view of industry participants. In addition, because gambling is perceived (with the assistance of sensationalist media reports that echo fictionalized depictions of gambling represented in popular culture) to be disproportionately enjoyed by racialized groups in British Columbia, there is the added element of unconscious ethnic bias around the public perception of gaming.⁴

9. Some of the evidence the Commission heard either acknowledged bias towards the gaming sector and/or its patrons, or exemplified it.

10. For example, the Commission heard the evidence of Bud Smith, Q.C.⁵ about the intersection of public attitudes with public policy over the expansion and

³ Dovidio, J.F. et al, *Recategorization and crossed categorization: The implications of group salience and representations for reducing bias*. In R.J. Crisp & M. Hewstone (Eds.), *Multiple social categorization: Processes, models and applications* (pp. 65-89). Psychology Press (2006).

⁴ Panasitti, M. and Schull, N., *Re-articulating the Moral Economy of Gambling*, Kroeber Anthropological Society Papers 77 (1993).

⁵ Examination of Bud Smith by Mr. McGowan, February 4, 2021, pp. 56-57.

regulation of gaming. The commission heard the evidence of Prof. Henry Yu⁶ regarding various forms of bias in public discourse specific to people of East Asian descent, and in particular of Chinese descent. That evidence is particularly relevant given that the record shows the majority of high value patrons at lower mainland casinos are East Asian or of East Asian descent, and indeed all of the specific patrons whose names were put in the public record fall into that category. The commission also heard the evidence of Minister De Jong⁷ about how there was an unfortunate political narrative that conflated foreign money with dirty money.

11. In respect of the perception of the gaming industry, the commission heard evidence about numerous media articles and political statements that presupposed that it was not difficult to launder proceeds of crime within casinos themselves, a conclusion completely unsupported by the actual evidence before the Commissioner.⁸

12. The commission also heard evidence from law enforcement and individuals at the enforcement end of regulatory bodies who repeatedly demonstrated negative attitudes towards the gaming sector and gaming patrons. For example, there was the evidence of Larry Vander Graaf⁹ that GPEB investigators would have needed guns and other parapolice paraphernalia in order to safely conduct investigations in casinos (needless to say Gateway views this suggestion as absurd and without any

⁶ Examination of Henry Yu by Mr. Martland, February 19, 2021, pp. 76-84.

⁷ Examination of Michael de Jong by Mr. Martland, April 23, 2021, p. 104, ll. 3-7.

⁸ Examination of Rich Coleman by Mr. Martland, April 28, 2021, pp. 127-139; examination of David Eby by Mr. McGowan, April 26, 2021, pp. 4-6; and examination of Stephen Schneider by Mr. Martland, May 25, 2020, p. 78 ll. 17-27.

⁹ Examination of Larry Vander Graaf by Mr. Smart, November 13, 2020, pp. 32-33.

evidentiary basis).¹⁰ Barry Baxter also commented with surprise that “a known high end” gambler who arrived at the casino with large amounts of cash was considered a “valued patron”¹¹, though he did not suggest how the unnamed casino ought to have treated the patron.

13. At a more benign level, many of the witnesses testified to the effect: “I am not a gambler myself, so I don't know...” Similarly, there was much evidence about a general lack of understanding about how financial systems in other jurisdictions (and our own federal and provincial systems)¹² actually work.

14. It is important that the Commissioner guard against the impacts of harmful unconscious bias by considering the same evidence as if it occurred in a different context.¹³ For example, considering the same evidence from the viewpoint of others (*i.e.*, a recreational gambler, or someone of East Asian ethnicity), substituting a different industry (*e.g.*, “amusement parks” instead of “casinos”), or substituting Anglo-Saxon names for East Asian names when reviewing the gaming sector evidence might be ways of checking unconscious bias.

¹⁰ There is no evidence that physical safety of any employee or investigator is a concern at any Gateway facility in connection with interviewing patrons. Gaming security officers are not equipped with guns in order to provide security at casinos.

¹¹ Examination of Barry Baxter by Mr. Skwarok, April 8, 2021, pp. 73-74.

¹² See, for example, examination of John Karlovcec by Ms. Latimer, October 29, 2020, pp. 118-119; examination of Daryl Tottenham by Mr. Skwarok, November 10, 2020, p. 82; examination of Larry Vander Graaf by Ms. Latimer, November 12, 2020, pp. 180-181; examination of Brad Desmarais by Mr. Skwarok, February 2, 2021, pp. 90-91; examination of Patrick Ennis by Mr. McCleery, February 3, 2021, p. 91; examination of Len Meilleur by Ms. Latimer, February 12, 2021, pp. 41-42; examination of Peter German by Mr. Butcher, April 13, 2021, pp. 122-123; and examination of Ross Alderson by Mr. Skwarok, September 9, 2021, p. 154.

¹³ Judge A.J. Wistrich and Rachlinski, J.J., *Implicit Bias in Judicial Decision Making, How It Affects Judgment and What Judges Can Do About It*. In Redfield, S.E. (Ed.), *Enhancing Justice: Reducing Bias*, American Bar Association (2017)

The risk of traditional money laundering in BC casinos is low

15. Gaming is one of the few industry sectors in the province in which multiple participants (service providers, BCLC, GPEB, provincial and federal governments and agencies) have focused attention and concerted effort on the prevention, detection and deterrence of money laundering and use of proceeds of crime. The disproportionate volume of evidence before the Commission about such issues in the gaming sector was available because these actors have been focusing on the issue of money laundering and proceeds of crime. If the gaming industry had been turning a blind eye money laundering, this evidence would simply not exist.

16. A distorted narrative regarding the risk of money laundering in the gaming sector is prevalent in media reports, political statements, and in some of the evidence before the Commission as discussed above. This distorted narrative is enabled by a failure to distinguish between the typical money laundering typology (of “dirty money” to “clean money”) versus the presence of cash that may be tied to proceeds of crime, which is found routinely in every type of business that deals in cash.

17. There is no evidence in this proceeding that casinos in BC pose a significant risk in respect of the traditional money laundering typology. BCLC, the service providers and GPEB have worked together effectively to virtually eliminate that risk. Third party audits have confirmed the efficacy of these measures.¹⁴ Cheques are only issued by service providers like Gateway in respect of wins, or on a convenience basis in very limited circumstances. Laundering cash by converting smaller denomination bills into larger denomination bills is prevented through operational policies implemented by BCLC and carried out by Gateway.

18. Even before more recent process improvements, there is no evidence that traditional money laundering typologies took place within BC casinos on anything more than an extremely unusual basis. Some time was spent in the evidence on a single incident that occurred in 2010, prior to Gateway taking over as service provider, where a gambler was provided a letter at Starlight Casino for a convenience cheque, which risked wrongly validating the source of funds. There is, however, no evidence this represented a common practice at the predecessor operator to Gateway, nor any evidence that it ever happened again after Gateway became the operator.¹⁵

19. Further, no law enforcement agency was ever concerned that casinos themselves were participating in money laundering activities.¹⁶

20. It would also be unsafe to conclude that the gaming sector poses an elevated risk in terms of money laundering typologies along the lines of the so-called "Vancouver Model". To the extent such a risk existed in the past because of the requirement that all casino buy-ins be in cash, that requirement is not only gone, but the industry is moving in the other direction. The industry's KYC and source of funds requirements are extraordinarily rigorous. Take away the unconscious bias about gambling and what is revealed is an industry that money launderers would not likely target because of the AML measures in place.

¹⁴ Examination of Robert Kroeker by Ms. Bevan, January 25, 2021, pp. 207-212.

¹⁵ Examination of John Karlovec by Mr. Gruber, October 30, 2020, p. 125; Examination of Barry Baxter by Ms. Bevan, April 8, 2021, p. 144.

¹⁶ Examination of Barry Baxter by Ms. Bevan, April 8, 2021, p. 149.

21. Gateway has been highly supportive of enhanced AML measures. As Jim Lightbody testified¹⁷, Gateway supported his efforts to transition to a cashless business model focused away from high limit betting. Gateway supported the work of Peter German and the efforts to implement his recommendations. It has urged this Commission to study closely the risk-based regulatory measures, which it believes are proving successful in Ontario.

22. Gateway welcomes recommendations the Commissioner may offer to further improve AML measures in the gaming sector in a manner that appropriately reflects the actual risks of gaming in the province, that balances the perspectives of all of the participants in the gaming sector, and that reflects a consistent approach to proceeds of crime issues across other sectors, including real estate and luxury goods. Gateway submits that the Commissioner has heard no evidence that any participant (individual or corporation) ever approached the issues of money laundering and proceeds of crime in BC casinos with anything but good faith in order to best serve the interests of the public in a strong gaming industry in BC.

Gateway meets its obligations as a commercial services provider to BCLC

23. One of the key themes pursued by Commission counsel during the gaming sector hearings was the suggestion that participants in the industry favoured maximizing revenue over properly managing the risk of money laundering or proceeds of crime in casinos. This theme has found traction in media reporting and forms part of the “received wisdom” about gaming in British Columbia.¹⁸ However, there is no actual evidence that the presence of alleged or suspected proceeds of crime in casinos proliferated between 2005 and 2018 because the participants in the

¹⁷ Examination of Jim Lightbody by Mr. Gruber, January 29, 2021, pp. 69-70.

industry (and in particular Gateway) prioritized revenue at the expense of appropriate mitigation of the risk of money laundering or proceeds of crime.

24. Gateway and other gaming service providers serve a commercial function in the gaming industry. Gaming service providers operate under the terms of the Operational Service Agreements (**OSAs**), which service providers must enter into with BCLC in order to operate each gaming facility.¹⁹ The OSAs are commercial agreements that authorize Gateway, among other things, to do the following: (a) to collect, receive and hold Revenue, Net Win and Chip Liability for and on behalf of and as agent for BCLC, and to hold Revenue and other monies as trustee for BCLC; (b) to accept bets on Games on behalf of and as agent for BCLC; (c) to pay Winnings and redeem for cash all Chips on behalf of and as agent for BCLC; and (d) to receive commission “for the whole of the Services” provided by Gateway to BCLC.²⁰

25. The existence of commercial terms between BCLC and its service providers does not mean Gateway traded risk for revenue, or that its commercial practices contributed to the proliferation of proceeds of crime in casinos. Gateway has contractual obligations under its OSAs to follow BCLC standards, policies and procedures for AML and other operational practices, as those standards, policies and practices exist from time to time.²¹ The contractual model (combined with regulatory

¹⁸ Examination of Bud Smith by Ms. Peddle, February 4, 2021, p. 167, ll. 18-25, p. 168, ll. 1-7.

¹⁹ Exhibit 76, Overview Report: BCLC Standards, Policies, Procedures and Operational Service Agreements, Appendices C and D.

²⁰ Exhibit 76, Appendices C and D, Article 8 (Financial Matters & Obligations) and Schedule A (Business Terms).

²¹ Exhibit 76, Appendix C, Article 1.1(m); Article 3, “Compliance and Integrity of Gaming”.

oversight by GPEB) appropriately balances the inherent risk of a cash-based gambling business with revenue generation, and gives ultimate control to BCLC as the “conduct and manage” body on operational practices (under either the prescriptive or risk-based approach).

26. Gateway runs the risk of losing its ability to operate its casinos, and thus risks its revenue and considerable business investment, if it does not meet its contractual obligations in any jurisdiction in which it operates.²²

27. One of the false assumptions underlying the theory that service providers prioritized revenue over appropriate risk mitigation is that large cash buy-ins at tables are the driver of revenue for casino service providers. First, Gateway earns commissions on the “whole of the Services” provided to BCLC, not on large cash transactions, and not only table game services where the bulk of large cash buy-ins occur.²³ The commission is earned on compliance with the terms of the OSA, which requires Gateway to operate a business, and on operation of that business in alignment with the BCLC standards and the GCA.

28. Second, the evidence is that gaming revenue continued to increase generally after BCLC implemented cash conditions, which resulted in a decline in large cash buy-ins. BCLC’s Annual Service Plan Reports reported overall revenue from casino and community gaming as \$1,684.8M in 2013-2014; \$1,800.9M in 2014-2015; \$1,814.7 in 2015-2016; \$1,858.4 in 2016-2017; and \$1,951.5M in 2017-2018.²⁴

²² Examination of Peter German by Ms. Bevan, April 12, 2021, p. 161, ll. 1-12.

²³ Exhibit 76, Appendix C, Article 8.5.

²⁴ Exhibit 72, Overview Report of BCLC Annual Reports 1986-2018/2019, Appendix FF, 2017/2018 Annual Service Plan Report, p. 23.

29. Gateway's operations are not marketed only towards high-limit players. The Commissioner heard evidence that overall increase in revenue generation at Gateway's Grand Villa and Starlight properties between 2012 and 2019 was attributed to Gateway's focus on "light to casual"²⁵ players, rather than high limit players.²⁶

30. Commission counsel requested that Gateway prepare an affidavit attaching records related to "comps" offered by Gateway to one player, Jia Gui Gao, over the course of the years in which Mr. Gao gambled at Gateway casinos (or casinos operated by the predecessor to Gateway).²⁷ Mr. Gao was a high volume player at Grand Villa and at other facilities operated by other service providers. The Commission heard evidence in varying contexts of large cash transactions by Mr. Gao at Gateway and other facilities, which transactions were reported by Gateway as required, but no evidence that Gateway ever sought to influence any action or decision in relation to Mr. Gao in order to preserve revenue.²⁸ There is no evidence before the Commissioner that comps offered by Gateway to high volume players, including Mr. Gao, encouraged risky cash practices or otherwise compromised the integrity of anti-money laundering policies in casinos.²⁹

²⁵ Gateway would normally characterize these players as "light and casual", though the two phrases are synonymous.

²⁶ Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn October 22, 2020, Exhibit A, p. 15; Examination of Caterina Cuglietta by Ms. Bevan, January 21, 2021, p. 44, ll. 15-25, p. 45, ll. 1-5.

²⁷ Exhibit 1040, Affidavit #2 of Bill Lang, May 22, 2021.

²⁸ Examination of Daryl Tottenham by Ms. Latimer, November 4, 2020, p. 131, ll. 6-15; by Ms. Rajotte, November 10, 2020, p. 37, ll. 21-25, p. 38, ll. 1-16; Affidavit #1 of Daryl Tottenham, Ex. 77, p. 634.

²⁹ Exhibit 782, Affidavit #1 of Robin Jomha, March 24, 2021, Ex. G.

31. There is also zero evidence of any formal or informal connection between Gateway's revenue and investment plans on one hand and cash facilitation on the other. Commission counsel called evidence about a meeting outside of Starlight Casino that occurred on February 27, 2015. The meeting is documented in a surveillance report prepared by Gateway and BCLC³⁰, and entirely captured on preserved video surveillance.³¹

32. The evidence about the meeting is uncontroverted: Gateway's Executive Director of VIP and then-Manager of Business Development attended a brief meeting with a patron outside of the casino to discuss Gateway's potential plan to build a hotel and/or spa on its land at Starlight Casino. Paul Jin appeared with the patron. Gateway's employees did not know Mr. Jin by sight or by pseudonym as a banned player or a cash facilitator,³² and there is no evidence that they ought to have done so. Mr. Jin did not enter the casino (if he had, he would have been identified as a banned player by Gateway's surveillance team, who are required to be independent from employees who work with VIP patrons³³) or engage in any kind of financial activity whatsoever with Gateway employees or with the patron at the

³⁰ Exhibit 87, Affidavit of Stone Lee, October 23, 2020, paras. 52 and 53.

³¹ Exhibit 479.

³² Exhibit 480, Affidavit #1 of Bill Lang, January 15, 2021, para. 13; Examination of Maggie Chiu by Mr. Gruber, January 21, 2021, p. 29, ll. 22-25.

³³ Exhibit 76, Appendix I, BCLC Surveillance Standards; Exhibit 782, Affidavit #1 of Robin Jomha, March 24, 2021, Exhibit G.

casino, nor did Gateway solicit Mr. Jin for any investment.³⁴ There was no financial or other relationship between or among Gateway, its employees, and Paul Jin.³⁵

33. Mr. Jin's presence at Starlight Casino that day was reported to law enforcement, who initiated their investigation into Mr. Jin's activities (not related to the February 27, 2015 meeting or to Gateway) some months later, at BCLC's insistence.³⁶

34. There is no evidence before the Commissioner that Gateway was encouraging cash facilitation or illegal activity, directly or indirectly, in connection with Paul Jin, or at all.

Gateway's role in combatting proceeds of crime as a service provider to BCLC

35. Proceeds of crime find their way into the economy whenever someone deals with property generated by a criminal offence³⁷, and therefore proceeds of crime may be present in every sector of the economy in British Columbia.³⁸ Proceeds of crime are more identifiable in cash-based businesses (*i.e.*, through the use of bulk cash that appears not to have been derived from bank withdrawal), but the presence of cash does not necessarily connect the business with the actual money laundering transaction. The overwhelming evidence in relation to casinos is that because of the

³⁴ Examination of Stone Lee by Mr. Gruber, October 27, 2020, pp. 88-89.

³⁵ Examination of Stone Lee by Mr. Gruber, October 27, 2020, p. 93, ll. 11-18; p. 96, ll. 5-8.

³⁶ Examination of Inspector Cal Chrustie by Mr. Davis, March 29, 2021, pp. 67 and 87 and by Mr. Stephens, p. 125.

³⁷ Examination of Simon Lord by Mr. McGowan, May 28, 2020, p. 23, ll. 15-20.

³⁸ See for example <https://vancouver.sun.com/news/wanted-brothers-keepers-gangster-spent-30000-cash-at-richmond-shoe-store>.

nature of gambling (and the prospect that money is lost in the process), and the ubiquitous surveillance of casinos, casinos are not the mechanism by which money is laundered. Gamblers in casinos are generally not the predicate offenders.³⁹

36. To the extent that the presence of cash that may be tied to proceeds of crime is a symptom of money laundering elsewhere in the economy, the evidence before the Commission amply demonstrates that there has been an evolution in understanding of the associated issues among all levels of government, law enforcement, regulators and industry. In light of this evidence, the Commissioner should be careful not to engage in hindsight bias in speculating about what might have been understood at an earlier time.

37. It is also important to keep in mind where service providers fit into the overall gaming industry in BC. Gateway is a commercial service provider. Gateway's role is to "provide day-to-day operational services at its gaming facilities." Gateway is "responsible for complying with all applicable rules and regulations as well as complying with the terms and conditions of [its] contract with BCLC."⁴⁰ BCLC, as the agent of the Crown responsible for conducting and managing commercial gaming in the province, is responsible for the "financial performance, integrity, efficiency and sustainability" of gaming in BC.⁴¹

38. Gateway does not have the capacity or the mandate to investigate crime or suspicious activity inside or outside of its operations, nor should it – the mandate to

³⁹ Examination of Melanie Paddon by Mr. Isaac, April 14, 201, p. 38.

⁴⁰ Exhibit 181, Affidavit #1 of Larry Vander Graaf, November 9, 2020, Exhibit C, p. 31.

⁴¹ Exhibit 181, Affidavit #1 of Larry Vander Graaf, November 9, 2020, Exhibit C., p. 30, s. 3.1.

investigate complaints and allegations of wrongdoing related to gaming rests with GPEB.⁴²

39. Gateway does have two key statutory reporting obligations relating to the occurrence or possible occurrence of unlawful activity at Gateway facilities⁴³:

- a. Under section 86(2) of the *Gaming Control Act*, Gateway (as a registrant under the *GCA*) must notify the General Manager immediately of any conduct, activity or incident occurring in connection with a lottery scheme if the conduct, activity or incident involves the commission of an offence under the *Criminal Code* that is relevant to a lottery scheme or the commission of an offence under the *Gaming Control Act*, and
- b. Under section 34(1)(t) of the *Gaming Control Regulation*, Gateway (as a services provider) must immediately to the General Manager any conduct or activity at or near a gaming facility that is or may be contrary to the *Criminal Code*, the *Gaming Control Act*, or the *Gaming Control Regulation*.

40. Connected to the statutory reporting obligations is the requirement to provide GPEB unfettered access to whatever GPEB deems necessary to conduct an investigation or audit under the *GCA*.⁴⁴

41. The BCLC Standards incorporate these statutory reporting requirements⁴⁵ and require Gateway to report to BCLC any failure to meet the reporting

⁴² Exhibit 181, Affidavit #1 of Larry Vander Graaf, November 9, 2020, Exhibit C., p. 30.

⁴³ Exhibit 181, Affidavit #1 of Larry Vander Graaf, November 9, 2020, Exhibit A, p. 9.

⁴⁴ *Gaming Control Act*, S.B.C. 2002, c. 14, s. 86(1).

⁴⁵ Exhibit 76, Appendix A, s. 5-1.4—2.

requirements under the *GCA*. The BCLC Standards further prescribe a broad range of circumstances that must be reported to BCLC and the manner in which the reports must be made and maintained by Gateway.⁴⁶ The Commissioner has heard an overwhelming amount of evidence about the nature of the reports prepared by service providers to BCLC and GPEB as they relate to large cash transactions.

42. There is no evidence that Gateway ever systematically failed to report transactions that were required to be reported by BCLC or GPEB to those entities or to the police, or otherwise failed to provide any information that was or could have been used to prevent, detect and deter money laundering or prevent the use of proceeds of crime in casinos.⁴⁷

43. Gateway maintains a significant investment in its facilities to meet and exceed its obligations for reporting and tracking play. Gateway voluntarily provided unfettered access to its facilities to Dr. German and his team to complete their reviews in connection with *Dirty Money*. Similarly, Commission counsel participated in a walk-through of the Grand Villa facility in late 2019 to get a first-hand understanding of operations in the cage and in the surveillance room. The timely reporting of incidents of concern (whether related to money laundering or proceeds of crime risks or not), and the extremely high quality of video surveillance and written reporting that is created and stored by the professional surveillance teams working at Gateway contributes positively to a safe gaming environment for patrons and workers, and also provides a wealth of information that is used by BCLC, GPEB and law enforcement where necessary and appropriate.

⁴⁶ Exhibit 76, Appendix A, Article 5-1.4

⁴⁷ Examination of Larry Vander Graaf by Ms. Bevan, November 13, 2020, p. 70, p. 71, ll. 1-2.

44. Service providers are audited regularly by GPEB and BCLC in relation to compliance with a number of different aspects of AML processes. The results of these audits are available to the Commission. The Commissioner heard no evidence that Gateway ever systematically failed to follow or implement the directions of GPEB or BCLC, or otherwise hindered BCLC's or GPEB's efforts to implement their proposed strategies to prevent money laundering in casinos and deter the use of proceeds of crime in casinos.

45. The only issue raised with respect to systematic compliance by Gateway related to the implementation of Dr. German's key source of funds recommendation in 2018. Sam MacLeod, the Assistant Deputy Minister and General Manager of GPEB, agreed that issues with systematic non-compliance related to source of funds were "growing pains" expected on the introduction of a major new initiative, rather than any wilful non-compliance by service providers.⁴⁸ The source of funds policy and process changes were fully implemented in 2019, and Mr. MacLeod was satisfied with the implementation of the policy at the time of the COVID-19 closure of casinos in 2020.⁴⁹

Gateway's obligation to observe cash management practices set by BCLC

46. The provincial government decided to build the gaming industry in British Columbia as a cash-based business, based on a considered assessment of the perceived social harms associated with offering credit to casino patrons.⁵⁰ The Commissioner heard evidence from multiple sources that casino patrons were not

⁴⁸ Examination of Sam MacLeod by Mr. McCleery, April 29, 2021, p. 34, ll. 1-25, p. 35, ll. 1-4.

⁴⁹ Examination of Sam MacLeod by Mr. McCleery, April 19, 2021, p. 36, ll. 2-7.

⁵⁰ Examination of Bud Smith by Mr. McGowan, February 4, 2021, p. 61, ll; 5-25, p. 62, ll. 1-12.

permitted to buy-in for gaming with anything other than cash until the introduction of patron gaming fund accounts in around 2010,⁵¹ though cash alternatives have long been available at casinos in other jurisdictions.

47. One of the issues identified for consideration by the Commissioner and by Commission counsel was the suggestion that service providers had an opportunity or obligation to refuse to accept large cash transactions generally. The repeated suggestion to the Commissioner is that it ought to have been obvious to any reasonable person that the notorious “bags of \$20 bills wrapped in elastic bands” that were the focus of so much comment before the Commissioner represented “dirty” cash⁵², and that casino service providers should have simply refused to accept this “dirty” cash, rather treating “these people [as] valued patrons.”⁵³

48. The Commissioner heard evidence of a specific situation in which Gateway appropriately refused to accept cash where Gateway’s cage employees had been advised by a law enforcement officer, after the officer interviewed the patron about the source of the funds at Gateway’s request, that the funds in the possession of the patron with which he was attempting to buy-in were suspicious.⁵⁴

49. There is no basis to conclude that Gateway had an obligation to generally refuse to accept large cash buy-ins from casino patrons in the absence of an express direction or advice by law enforcement that a particular transaction is likely the

⁵¹ Examination of Rick Duff by Mr. McCleery, January 25, 2021, pp. 28-29.

⁵² Examination of Melanie Paddon by Mr. Isaac, April 14, 2021, p. 17, l. 22.

⁵³ Examination of Barry Baxter by Mr. Isaac, April 8, 2021, p. 57, ll. 4-25; p. 72, ll. 3-18; p. 73, ll. 16-25, p. 74, l. 1-3; p. 160, ll. 16-19.

⁵⁴ Examination of Tom Robertson by Mr. McCleery, November 6, 2020, pp. 69-71.

proceeds of crime, or in the absence of a policy or standard imposed or recommended by GPEB and/or BCLC. Gateway has a contractual obligation to abide by the policies determined by BCLC⁵⁵, and the legislation, regulations and public interest standards imposed by GPEB.⁵⁶ Prior to 2016, when BCLC introduced sourced cash conditions for certain players, BCLC's policies did not provide a framework for service providers to refuse to accept cash buy-ins (which service providers accept on behalf of BCLC as trustee).⁵⁷

50. Gateway did not have the mandate to properly develop its own framework for imposing cash limits. The evidence before the Commissioner is that concerns about the risk of money laundering and proceeds of crime in casinos were generally not communicated to service providers. Law enforcement was not communicating directly with service providers prior to at least 2016, even though the apparent view held by law enforcement was that casinos were being used by organized crime to launder money.⁵⁸

51. As a matter of practice, GPEB did not communicate the conclusions it was drawing about the risk of proceeds of crime or money laundering to Gateway at the time it was documenting significant concerns internally.⁵⁹

⁵⁵ Exhibit 76, Appendices C and D, Operational Services Agreements, Article 3.2.

⁵⁶ Exhibit 76, Appendices C and D, Operational Services Agreements, Article 3.2; GCA, s. 105, *Gaming Control Regulation*, B.C. Reg. 208/2002.

⁵⁷ Examination of John Karlovcec by Mr. Gruber, October 30, 2020, p. 125, ll. 20-25, p. 126, ll. 1-3.

⁵⁸ Examination of Barry Baxter by Ms. Bevan, April 8, 2021, p. 149, ll. 16-17.

⁵⁹ Examination of Larry Vander Graaf by Ms. Bevan, November 13, 2020, p. 79, ll. 22-25, p. 80, p. 81, l. 1; Examination of Robert Kroeker by Ms. Bevan, January 25, 2021, p. 203, ll. 1-25, p. 204, l. 1-7.

52. For a variety of reasons, including BCLC's unique visibility into patron activity across gaming sites, BCLC does not communicate the results of patron interviews to service providers.⁶⁰

53. As such, it is unreasonable to conclude that Gateway, as an entity regulated by GPEB and a contractual partner to BCLC, was in a position to take unilateral action with respect to anti-money laundering measures in the context of the dynamic that existed between GPEB and BCLC on AML issues. For many years, BCLC and GPEB did not agree between themselves on the nature of the risk of money laundering and/or proceeds of crime in casinos, the specific authority or mandate that each organization had to address the risk, or the appropriate means and measures to mitigate that risk.⁶¹ Significant examples that have emerged from the evidence before the Commissioner include:

- a. GPEB conducted a Cash Facilitator Review in 2016 to attempt to quantify buy-ins connected to cash facilitators using reports produced by service providers. The review erroneously concluded service providers generally were "knowingly" accepting cash that had been "provided by banned individuals and appeared of questionable source" on the basis that transactions had been live-monitored. The error was driven by a lack of

⁶⁰ Examination of Ross Alderson by Ms. Bevan, September 10, 2021, pp. 9-10; examination of Robert Kroeker by Ms. Bevan, February 2, 2021, pp. 204-205.

⁶¹ See, for example, examination of Len Meilleur by Ms. Latimer, February 12, 2021, pp. 39-40; Examination of John Mazure by Mr. McCleery, February 5, 2021, pp. 53-55; examination of Brad Desmarais by Ms. Latimer, February 1, 2021, pp. 154-155; and examination of Robert Kroeker by Ms. Latimer, January 25, 2021, p. 81.

understanding and communication about real time events on the gaming floor, and was not resolved until this proceeding;⁶²

- b. As GPEB and BCLC worked to intensify AML efforts, each was unclear about the scope of the authority conferred in the *Gaming Control Act* to deal with criminal offences in the gaming context, and significant time was spent by each organization navigating that question;⁶³
- c. There was significant disagreement between GPEB and BCLC about the intended direction of government with respect to source of funds requirements in casinos as set out in the mandate letter of October 1, 2015;⁶⁴
- d. In 2017 (and despite years of working with service providers and BCLC toward a common goal of minimizing the impact of proceeds of crime in casinos) GPEB communicated to Minister Eby in a briefing that it was not aligned with BCLC's view of the money laundering risk in casinos, that BCLC was in denial about the risk of money laundering or proceeds of crime in casinos, and that the measures BCLC was implementing (and which service providers were bound to implement) were not effective to

⁶² Exhibit 781, Affidavit #1 of Anna Fitzgerald, March 3, 2021, Ex. 54.

⁶³ Examination of John Mazure by Mr. Butcher, February 11, 2021, pp. 157-163; Exhibit 522, Affidavit #1 of Brad Desmarais, January 28, 2021, Ex. 65.

⁶⁴ Exhibit 537, Affidavit #1 of Bud Smith, January 22, 2021, Exhibit 2, Appendix G, p. 91; Examination of Bud Smith, by Mr. McGowan, February 4, 2021, p. 75, ll. 22-25, p. 76, ll. 1-16; Examination of John Mazure by Mr. McCleery, February 5, 2021, p. 128, ll. 14-25, p. 129, p. 130, ll. 1-16.

combat money laundering, fostering mistrust by government in the AML regime;⁶⁵ and

- e. Gateway followed policy direction by BCLC and GPEB, though sometimes lack of coordination on instructions caused a perception that service providers were not complying with GPEB's requirements.⁶⁶

54. The issues above reflect gaps in the coherence and cohesiveness of the broader legislative framework in which the participants in the gaming industry could operate.

55. In any event, there is no evidence before the Commissioner of any other standard service providers could have implemented to limit cash buy-ins unilaterally. Dr. German concluded in *Dirty Money 1* that cash limits should not be imposed at buy-in because there “did not appear to be any objective criteria with which to determine an upper cash limit.”⁶⁷ No other international standard requires service providers or casino operators to refuse to accept cash because of the manner in which the cash is presented at the cash cage.⁶⁸

56. Furthermore, there are large evidentiary gaps that ought to preclude any finding that service providers such as Gateway should have perceived at some earlier time that their patrons' cash was or might be proceeds of crime.

⁶⁵ Exhibit 906, Provincial AML Strategy by John Mazure and Len Meilleur, August 2007; Examination of David Eby by Mr. McGowan, April 26, 2021, p. 40, l. 19-25, p. 41, p. 42, ll. 1-5.

⁶⁶ Examination of Robert Kroeker by Ms. Bevan, January 25, 2021, p. 205, ll. 11-25, p. 206, p. 207, ll. 1-17; Exhibit 490, Affidavit #1 of Robert Kroeker, made January 15, 2021, Ex. 57.

⁶⁷ *Dirty Money 1*, para. 603, Recommendation 21.

57. There is no evidence the patrons themselves knew or suspected the money they bought in with was proceeds of crime. None of them were called to give evidence (other perhaps than Qi Li, whose evidence Gateway submits was entirely lacking in credibility, and whose evidence did not relate to Gateway in any event). Patrons were never asked that question by investigators with either BCLC⁶⁹ or GPEB.⁷⁰

58. None of the employees of the casinos who received the buy-ins from those patrons were called to give evidence. In the absence of such evidence, it cannot be contended that service providers had any reason to believe that patron funds were the proceeds of crime.

59. In the absence of any evidence the patrons themselves knew or suspected they were playing with proceeds of crime, or any direct evidence from employees of the casinos who received the cash, it would be unjustifiable to suggest that service providers ought to have drawn a conclusion that cash in casinos was the proceeds of crime and therefore refused to accept the cash.

A collaborative approach to reducing the impact of proceeds of crime in BC casinos

60. The measures that are most successful to combat proceeds of crime in the economy are the ones that foster shared understanding of risk, responsibility and accountability based on a collaborative approach among all participants in the sector.

⁶⁸ Exhibit 1038, Report on AML Practices by Ernst & Young LLP, April 28, 2021; Examination of Brian Boyle by Ms. Bevan, September 13, 2021, p. 115.

⁶⁹ Examination of Mike Hiller by Mr. Gruber, November 9, 2020, pp. 111-112; Examination of Daryl Tottenham by Mr. Gruber, November 10, 2020, pp. 112-115.

⁷⁰ Examination of Joe Schalk by Mr. Gruber, January 22, 2021, pp. 188-191.

Any recommendations the Commissioner makes to government arising out of this Inquiry should have as their driving force appropriate information sharing and shared understanding of risk through collaboration among all participants.

61. The law enforcement experience in British Columbia illustrates the potential for more effective impact in the gaming sector. Direct collaboration between law enforcement and casino service providers (among other industry participants) is now an essential component of the effective prevention and detection of money laundering by law enforcement.⁷¹ Collaboration with industry partners contributes to the effectiveness of law enforcement activities and has the potential to reduce the impact of financial crime.⁷²

62. Opportunities for meaningful collaboration between law enforcement and industry partners (including service providers) did not exist prior to around 2017. The Integrated Illegal Gaming Enforcement Team (IIGET) suffered from confusion surrounding its mandate to police inside legal casinos,⁷³ and lack of resourcing to do so.⁷⁴ Service providers were not invited to attend consultative meetings.⁷⁵ The unit was disbanded in 2009.

63. Municipal police services did not then (and do not now) have the resources to investigate money laundering offences. Service calls in relation to suspicious

⁷¹ Examination of Sergeant Ben Robinson by Mr. Isaac, April 14, 2021, pp. 75-76.

⁷² Examination of Doug Lepard by Mr. Martland, April 7, 2021, p. 24, ll. 17-25.

⁷³ Examination of Fred Pinnock by Mr. McGowan, November 5, 2020, pp. 58-59.

⁷⁴ Examination of Wayne Holland by Ms. Friesen, December 2, 2020, p. 177, ll. 1-5; Examination of Wayne Holland by Mr. Smart, December 2, 2020, p. 183, ll. 5-25, p. 184, ll. 1-9.

⁷⁵ Examination of Wayne Holland by Mr. Skwarok, December 2, 2020, p. 196, ll. 6-12.

transactions at Starlight Casino have been received for intelligence, but not actioned for investigation.⁷⁶

64. Between 2010 and 2013, IPOC did not view service providers as community partners in the effort to investigate money laundering and/or proceeds of crime in casinos. Although there were concerns among law enforcement in 2010-2013 that casinos could be “victimized” by organized crime⁷⁷, IPOC’s view was that it was “not [their] function” to address these concerns with service providers, and that doing so would have been “inappropriate.”⁷⁸ IPOC “had no direct dealings [or] communication with any casino.”⁷⁹ Although IPOC determined that a “direction has to be taken to decrease [service providers’] ‘acceptance’ of large and suspicious cash transactions”, this view was not communicated by IPOC to service providers, directly or indirectly.⁸⁰ The proposed public education program for casino management and staff on money laundering or proceeds of crime risks as viewed by law enforcement was never implemented.⁸¹

65. More recent changes to the law enforcement model better align with the international standard of information-sharing by law enforcement with private sector partners. Information sharing contributes to an appropriate shared understanding of

⁷⁶ Examination of Inspector Christopher Mullin by Mr. Gruber, March 30, 2021, p. 121, ll. 21-25, p. 122, ll. 1-9.

⁷⁷ Examination of Barry Baxter by Ms. Bevan, April 8, 2021, p. 149, ll. 6-17.

⁷⁸ Examination of Barry Baxter by Ms. Bevan, April 8, 2021, p. 148, ll. 22-25, p. 149, ll. 1-2.

⁷⁹ Examination of Barry Baxter by Ms. Bevan, April 8, 2021, p. 143, ll. 18-19.

⁸⁰ Exhibit 759, Casino Summary & Proposal – IPOC – December 2011, p. 4; Examination of Barry Baxter by Ms. Bevan, April 8, 2021, p. 147, ll. 1-20.

⁸¹ Examination of Barry Baxter by Ms. Bevan, April 8, 2021, p. 151, ll.10-25, p. 152, ll. 1-9.

money laundering and proceeds of crime risks.⁸² The establishment of groups like the CIFA-BC and the Gaming Intelligence Unit of JIGIT “[opens] up lines of communication between the various stakeholders in the BC casino environment”⁸³ and fosters “shared understanding and collaboration” that is necessary for successful prevention and detection of money laundering activity and proceeds of crime. The collaborative, public-private partnership model of law enforcement recognizes that there is a “whole spectrum of partners... working towards a common goal, just doing it differently.”⁸⁴

66. Gateway provided its comments on the recommendations proposed by Dr. German to the Commission on December 19, 2019. Gateway’s view is that a transition to a standards-based/risk-based approach to regulation in the province would foster the flexibility and accountability required to equip all industry participants with the tools necessary to minimize the impact of proceeds of crime in casinos.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated: September 24, 2021



David Gruber

⁸² Examination of Simon Lord by Mr. McGowan, May 28, 2020, p. 5, ll. 16-27; by Mr. Smart, May 29, 2020, p. 38, ll. 1-9; by Ms. Peddle, May 29, 2020, p. 42, ll. 9-47, p. 43, ll. 1-36; p. 45, ll. 28-47.

⁸³ Examination of Sergeant Ben Robinson by Mr. Isaac, April 14, 2021, p. 32, l. 11-19; Exhibit 839, p. 6; Examination of Staff Sergeant Joel Hussey by Mr. Davis, April 7, 2021, p. 28, ll. 14-25, p. 29, ll. 1-10.

⁸⁴ Examination of Sergeant Ben Robinson by Mr. Isaac, April 14, 2021, p. 76, ll. 1-26.

A handwritten signature in black ink, appearing to read "Meg Gaily". The signature is fluid and cursive, with the first name "Meg" and last name "Gaily" clearly distinguishable.

Meg Gaily

A handwritten signature in blue ink, appearing to read "Laura Bevan". The signature is fluid and cursive, with the first name "Laura" and last name "Bevan" clearly distinguishable.

Laura Bevan

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