

COMMISSION OF INQUIRY INTO MONEY LAUNDERING IN BRITISH COLUMBIA
The Honourable Mr. Austin F. Cullen, Commissioner

CLOSING SUBMISSIONS OF ROBERT KROEKER

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1. In the 13 years that Mr. Kroeker worked in the field of anti-money laundering (“**AML**”) and proceeds of crime (“**POC**”), including over 8 years in the gaming industry, Mr. Kroeker has again and again demonstrated his expertise, diligence, integrity, and unwavering commitment to compliance and continuous improvement of BC’s AML regime. During these 13 years, he was chosen to assess and lead AML and compliance efforts in British Columbia’s gaming industry by government, by industry, and by a Crown corporation. He was involved in the development and expansion of gaming compliance for over a decade. By the time he left the gaming industry in 2019, it was markedly different than when he arrived in 2011. This change can in part be attributed to Mr. Kroeker’s years’ long efforts to proactively deal with issues, by undertaking careful analysis, and by implementing evidence-based policy.

2. Mr. Kroeker’s subject-matter expertise led him to be selected by various agencies in work that spanned policing, administrative forfeiture, advice to government, and leading compliance in private industry and a Crown corporation. After obtaining a law degree and working in law enforcement for numerous years, Mr. Kroeker was BC’s first Director of Civil Forfeiture from 2006-2012. In this role, his work focused squarely on addressing money laundering (“**ML**”) and POC issues and he was responsible for the recovery of over \$30M in laundered proceeds.¹ In 2011, Mr. Kroeker was selected by the provincial government (“**Province**”) to assess compliance of the AML policies, practices, and strategies of the British Columbia Lottery Corporation (“**BCLC**”) and the Gaming Policy and Enforcement Branch (“**GPEB**”) (“**2011 Summary Review**”).² In 2012, Mr. Kroeker was recruited and hired by the Great Canadian Gaming Corporation (“**GCGC**”) as Vice

¹ Commission Exhibit 490, Affidavit #1 of Robert Kroeker [Kroeker Affidavit #1], para. 10.

² Kroeker Affidavit #1, paras. 19-21.

President, Compliance and Legal. Finally, in 2015, BCLC recruited Mr. Kroeker to take on the role of BCLC Vice President, Legal, Compliance and Security and Chief Compliance Officer, where he remained until July 2019.

3. As is evidenced by Mr. Kroeker's choice of career, he has only ever been involved in the compliance, anti-money laundering and law enforcement side of gaming. He has never been involved in business development in the gaming industry. This is neither his area of interest or expertise. Accordingly, it is not surprising that in each of these roles, Mr. Kroeker's top priority was ensuring that appropriate action was taken to address risk, no matter the revenue consequences or challenges in implementation.³ Mr. Brad Desmarais described Mr. Kroeker as having "some of the highest levels of integrity" of anyone he knows, sometimes to the detriment of his own personal interests.⁴ Indeed, Mr. Kroeker was "hypervigilant" about AML and compliance issues.⁵ As others testified, at both GCGC and BCLC, Mr. Kroeker never put revenue concerns before AML compliance and improvement.⁶ The impacts of Mr. Kroeker's efforts speak for themselves.

4. In determining what appropriate action is in a given situation, Mr. Kroeker was collaborative and data-driven.⁷ Such a collaborative approach has multiple benefits: it improves information sharing and mutual understanding between parties, and ensures that the right decisions are being made.⁸ Throughout his tenure in the gaming industry, Mr. Kroeker

³ Testimony of T. Doyle (Feb. 9, 2021) at p. 138; T. Doyle (Feb. 10, 2021) at pp. 17, 58-59, 93-94, 98. See also: Testimony of J. Karlovcec (Oct. 30, 2020), pp. 173-174.

⁴ Testimony of B. Desmarais (Feb. 2, 2021), p. 112.

⁵ Testimony of B. Desmarais (Feb. 2, 2021), p. 93.

⁶ Testimony of T. Doyle (Feb. 10, 2021), p. 94; J. Karlovcec (Oct. 30, 2020) at pp. 173-174.

⁷ Testimony of T. Doyle (Feb. 9, 2021), p. 143; T. Doyle (Feb. 10, 2021), pp. 94-95; J. Karlovcec (Oct. 30, 2020), p. 119.

⁸ Testimony of S. Lord (May 28, 2020), p. 30, ll. 31-38.

approached policy changes by engaging in the necessary analysis to ensure that changes were evidence-based rather than reactions to innuendo or speculative risk.⁹ In the AML sphere, this kind of approach is prudent, as improvident policy changes can have unintended consequences by creating further, unanticipated AML risks.

5. The evidence about Mr. Kroeker's character and approach to his job and AML is essentially uncontroverted in the evidence before the Commission. The only two Commission witnesses who had anything negative to say about Mr. Kroeker were Cary Skrine and Ross Alderson. Mr. Skrine testified that he had a "couple of interactions that were a little more difficult than they needed to be" and that his perception was that Mr. Kroeker was resistant to the idea that bank drafts created risk.¹⁰ During cross-examination, however, Mr. Skrine acknowledged that he was not aware of what BCLC was doing with respect to bank drafts at the time.¹¹ In fact, Mr. Kroeker had implemented a policy change to respond to this risk.¹²

6. Although Mr. Alderson made allegations against Mr. Kroeker two years after his departure from BCLC, his evidence is profoundly suspect and contrary to much more credible evidence heard by this Commission. There is also no evidence corroborating Mr. Alderson's central allegation against Mr. Kroeker, despite the fact that such evidence would necessarily exist on Mr. Alderson's own account. Upon investigating the alleged incident, Mr. Skrine found no evidence supporting the allegations and concluded they were unfounded.¹³ Ms. Bamra and Mr. Tottenham, both during the investigation and before the Commission, vehemently denied Mr.

⁹ Testimony of D. Tottenham (Nov. 5, 2021), p. 14; T. Doyle (Feb. 10, 2021), pp. 94-95.

¹⁰ Testimony of C. Skrine (Jan. 27, 2021), pp. 104, 111.

¹¹ *Ibid.*

¹² Testimony of C. Skrine (Jan. 27, 2021), p. 111; Kroeker Affidavit #1, Exhibit 84, "BCLC Bank Draft Receipt Directive" (Nov. 24, 2017).

¹³ Testimony of C. Skrine (Jan. 27, 2021), pp. 97-100.

Alderson's accusations which they would have been privy to.¹⁴ Mr. Skrine concluded that the allegations were entirely inconsistent with Mr. Kroeker's "historical views and actions on matters of this nature while employed by BCLC".¹⁵ Indeed, the circumstances surrounding this allegation are highly suspect: Mr. Alderson had left BCLC after leaking confidential documents to the media.¹⁶ He eventually became upset with BCLC executives because they did not stand by his account of the casino industry as related to a reporter on W5. Although Mr. Alderson suggested this was not "an allegation made out of spite", he acknowledged that the "primary reason" he made the complaint was because the letter he received from BCLC made him "very angry".¹⁷

7. Up until receiving this letter, Mr. Alderson's primary complaints were against GPEB and the police, not BCLC.¹⁸ Mr. Alderson was also frustrated with the government for "controlling the narrative".¹⁹ He "never had a beef with BCLC" and believed they were doing the right thing.²⁰ Mr. Alderson agreed he had a good working relationship with Mr. Kroeker, he learned a lot from Mr. Kroeker, and Mr. Kroeker's mentorship meant a lot to him.²¹

8. Over and over again, the unimpeachable nature of Mr. Kroeker's integrity was adduced before the Commission. His conduct, throughout, was guided by integrity and the attempt to provide the best solutions to AML issues based on the understanding and information available

¹⁴ Commission Exhibit 504, Affidavit #1 of Cary Skrine [Skrine Affidavit #1], Exhibit OO, GPEB Investigational Log, pp. 65-66; Commission Exhibit 143, Affidavit #1 of Bal Bamra, paras. 10, 14, 16; Commission Exhibit 148, Affidavit #1 of D. Tottenham [Tottenham Affidavit #1], paras. 221-222.

¹⁵ Skrine Affidavit #1, Exhibit OO, GPEB Investigational Log, p. 66; Testimony of C. Skrine (January 27, 2021), p. 100.

¹⁶ See Testimony of D. Tottenham (November 10, 2020), p. 171; D. Tottenham (November 5, 2020), p. 33-35. See also Commission Exhibit 499, Resignation Letter of Ross Alderson.

¹⁷ Testimony of R. Alderson (Sept. 10, 2021), p. 89.

¹⁸ Testimony of D. Tottenham (Nov. 5, 2020), pp. 37-38; (Nov. 10, 2020), pp. 169-171; C. Skrine (Jan. 27, 2021), pp. 88-95; R. Alderson (Sept. 9, 2021), pp. 143-147; R. Alderson (Sept. 10, 2021), pp. 42-44, 92-93, 117-118, 122, 124-125. See also Commission Exhibit 835, R. Alderson Comments on German Report.

¹⁹ Testimony of R. Alderson (Sept. 9, 2021), p. 145.

²⁰ Testimony of R. Alderson (Sept. 10, 2021), p. 90.

²¹ Testimony of R. Alderson (Sept. 10, 2021), pp. 38-40, 42, 43-44, 94-95, 99-100. In addition to having acknowledged that any such comment was out of character for Mr. Kroeker.

at any particular point and time. Indeed, on many occasions, including most recently Dr. German's recommendations, Mr. Kroeker has advocated for stricter controls than those suggested by others. While there is no question a range of controversy nationally and internationally as to the appropriate approach to any particular gaming issue, what is beyond question is that Mr. Kroeker, on the evidence before this Commission, did his level best to find the most effective solutions. While hindsight may be 20/20, it should not obscure the significant contribution that Mr. Kroeker made to AML in each and every position he occupied.

Mr. Kroeker's 2011 Summary Review

A. Engagement and Mandate

9. In January 2011, while Mr. Kroeker was at the CFO, he was engaged by Minister Coleman to review GPEB and BCLC's AML regimes for compliance with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, and to make recommendations to improve the industry.²² Fundamentally, the purpose of the review was to give the Minister a moment-in-time status of whether BCLC and GPEB were complying with federal legislation.²³

10. Mr. Coleman explained in his testimony that he selected Mr. Kroeker because he was familiar with Mr. Kroeker's work at the CFO and was of the view that Mr. Kroeker was "one of the exemplary ones".²⁴ Mr. Coleman testified that he considered Mr. Kroeker to be one of the "most honest and dedicated public servants" he had ever worked with and was confident in his ability to undertake the review.²⁵

²² Kroeker Affidavit #1, paras. 20-22; Testimony of R. Coleman (April 28, 2021), p. 169.

²³ Testimony of R. Kroeker (Jan. 26, 2021), p. 27.

²⁴ Testimony of R. Coleman (April 28, 2021), pp. 164-165.

²⁵ Testimony of R. Coleman (April 28, 2021), pp. 164-165; L. Wanamaker (April 27, 2021), pp. 29-30.

B. Mr. Kroeker's 2011 Summary Review offered proactive solutions

11. Although at the time there was no concrete evidence that cash coming into casinos was linked to criminality or that money laundering was occurring,²⁶ Mr. Kroeker nevertheless recommended and advocated for policies to reduce the amount of cash in the system, address large cash transactions (“LCTs”), the risk that POC were being spent in BC casinos, and encourage patrons to use traceable financial instruments rather than cash facilitators.²⁷

12. In his Summary Review, Mr. Kroeker made four recommendations to BCLC, three recommendations to GPEB, and two recommendations to the Province. His recommendations for BCLC focused first on ensuring that BCLC and casino staff were aware of and had the tools to assess ML typologies other than traditional ML.²⁸ Second, Mr. Kroeker's recommendations were aimed at removing cash from the system, and allow patrons to use traceable cash alternatives.²⁹ His recommendations to GPEB were aimed at ensuring the various GPEB divisions worked in concert, rather than in silos, with respect to compliance and to ensure GPEB created a formal relationship with law enforcement to ascertain their engagement.³⁰ Finally, Mr. Kroeker's recommendations to the Province was for it to model the gaming industry on financial sector best practices, and create a cross-agency task force to investigate and gather intelligence.³¹

²⁶ Testimony of M. Paddon (April 14, 2021), pp. 148-149; B. Baxter (April 8, 2021), pp. 126-127, 174; C. Chrustie (March 29, 2021), p. 123-125; D. Tottenham (November 10, 2020), pp. 81-82; Tottenham Affidavit #1, Exhibit 43.

²⁷ Kroeker Affidavit #1, para. 27.

²⁸ Mr. Kroeker recommended that BCLC: (1) enhance training and policy to help ensure gaming staff do not draw conclusions about the origin of funds based solely on the identification of a patron and their pattern of play; (2) change its view that gaming losses on the part of a patron suggest the patron is not involved in money laundering or other related criminal activity: Commission Exhibit 73, Overview Report: Past Recommendations and Reviews of the Gaming Industry [Past Recommendations OR], Appendix E, 2011 Summary Review, p. 3.

²⁹ Mr. Kroeker recommended that BCLC allow cash-outs to be issued by cheque marked clearly “not from gaming winnings”; and develop and implement cash alternatives: Past Recommendations OR, Appendix E, 2011 Summary Review, p. 3

³⁰ Past Recommendations OR, Appendix E, 2011 Summary Review, p. 4-5

³¹ *Ibid*

13. Following his Review, Mr. Kroeker was asked to assist BCLC with the implementation of the recommendations related to cash alternatives.³² By February 2012, BCLC had developed (1) cheque hold/markers; (2) enhancements to patron gaming fund (“**PGF**”) accounts to allow funds to be transferred from Canadian regulated financial institutions; and (3) expanded buy-in options to include certified personal cheques, bank drafts, or debit cards.³³ Aside from being asked to assist with implementation of this particular recommendation, Mr. Kroeker had no involvement with, or input into if or how, his recommendations were to be implemented.

C. The Province and GPEB agreed with Mr. Kroeker’s recommendations

14. The Province accepted Mr. Kroeker’s report and developed the Provincial AML Strategy to operationalize the recommendations contained within it, with the exception of the recommendation that it create a cross-agency task force.³⁴ This recommendation was not implemented according to the government until the other recommendations could be effectively evaluated.³⁵

15. GPEB was also in agreement with Mr. Kroeker’s recommendations.³⁶ Although Larry Vander Graaf, then Executive Director of GPEB Investigations Division, testified that he suggested that Mr. Kroeker recommend a cap on \$20 bills and a source of funds declaration, the General Manager (“**GM**”) of GPEB did not accept or support either of these suggestions.³⁷ Mr. Scott believed that Mr. Vander Graaf’s proposal was “too blunt of an instrument” and that “a more

³² Kroeker Affidavit #1, para. 31.

³³ Commission Exhibit 929, Issues Note: Gaming Review: AML Measures in BC Facilities (February 23, 2012), p. 3.

³⁴ Commission Exhibit 888, Confidential Issues Note: Gaming Review: AML Strategy Update (August 24, 2011), p. 1

³⁵ *Ibid* at p. 5.

³⁶ Testimony of D. Scott (February 8, 2021), pp. 90-91, 114, 129, 130.

³⁷ Testimony of L. Vander Graaf (Nov. 12, 2020), p. 87; L. Vander Graaf (Nov. 13, 2020), pp. 58-59; D. Scott (Feb. 8, 2021), pp. 90, 98, 106, 143.

nuanced approach” was more appropriate to deal with the concerns about POC.³⁸ Nor did the members of GPEB’s cross-divisional working group, which was tasked with implementing the Province’s AML Strategy, support Mr. Vander Graaf’s suggestions.³⁹ Mr. Kroeker does not believe Mr. Vander Graaf made any mention of work surrounding source of funds,⁴⁰ but he was of the considered view that simply banning one denomination would not solve the problem as it would invite illicit actors to switch to other denominations.⁴¹

16. A more nuanced approach, as suggested by Mr. Kroeker, was consistent with industry best practices at the time and the guidance of both FinTRAC and the Financial Action Task Force (“**FATF**”),⁴² FinTRAC and the FATF have always recommended a risk-based approach rather than a prescriptive approach to AML.⁴³ At the time, no other jurisdictions had cash caps, mandated accounts, or identified source of funds (“**SOF**”): the focus of AML efforts was on source of wealth (“**SOW**”), know your customer (“**KYC**”) and customer due diligence (“**CDD**”).⁴⁴ In 2011, FinTRAC’s guidance for casinos was focused on single transactions; it was only in 2014 that it brought in requirements to engage in ongoing monitoring of patrons.⁴⁵ Even in 2015 when BCLC formally established a risk-based SOF program, the program was incredibly novel in the gaming industry.⁴⁶

³⁸ Testimony of D. Scott (Feb. 8, 2021), pp. 90-91, 109.

³⁹ Testimony of T. Towns (Feb. 1, 2021), pp. 11-12.

⁴⁰ Mr. Kroeker had no recollection of Mr. Vander Graaf recommending a source of funds declaration: Kroeker Affidavit #1 at para. 25.

⁴¹ Testimony of R. Kroeker (Jan. 2, 2021), pp. 82-83. Mr. Kroeker experienced this phenomenon of simply displacing the problem in his work at the Civil Forfeiture Office: Kroeker Affidavit #1, paras. 14, 27.

⁴² Testimony of R. Kroeker (Jan. 25, 2021), p. 85.

⁴³ Kroeker Affidavit #1, Exhibits 1 and 2; Testimony of R. Kroeker (Jan. 25, 2021), pp. 85, 191; R. Kroeker (Jan. 26, 2021), pp. 165-166; J. Lightbody (Jan. 28, 2021), pp. 45-46, 61; B. Desmarais (Feb. 2, 2021), pp. 1-2.

⁴⁴ Testimony of R. Kroeker (Jan. 25, 2021), pp. 85, 191; R. Kroeker (Jan. 26, 2021), pp. 165-167; S. Birge (Feb. 3, 2021), pp. 19, 34-35; J. Lightbody (Jan. 28, 2021), pp. 46, 63; P. German (Apr. 12, 2021), pp. 17-18; Commission Exhibit 1038, Ernst & Young AML Practices Report [EY AML Practices Report], paras. 5.3, 5.5, 5.12, 5.15, 5.61-5.63, 5.89-5.92.

⁴⁵ Testimony of R. Kroeker (Jan. 26, 2021), p. 167.

⁴⁶ Testimony of D. Tottenham (Nov. 5, 2020), p. 5; D. Tottenham (Nov. 10, 2020), pp. 193-194; P. Ennis (Feb. 4, 2021), p. 3; M. de Jong (April 23, 2021), p. 144.

17. At the time of Mr. Kroeker's Review, GPEB, the Province, FinTRAC, and the FATF did not view a more drastic approach as necessary or appropriate nor has such an approach been recommended by any of these entities since.⁴⁷ To implement such a heavily prescriptive approach, more evidence and information was needed.⁴⁸ As Mr. Kroeker himself recognized, his summary review would not suffice. His recommendation to create a cross-agency task force to investigate and gather intelligence was aimed precisely at this need to gather more information.

D. The 2011 Summary Review brought needed guidance and prompted action

18. Mr. Kroeker's 2011 Summary Review had immediate as well as long-term positive impacts on the gaming industry. Dr. German testified that Mr. Kroeker's Review was the first attempt to address ML in casinos on an industry-wide basis.⁴⁹ Mr. Kroeker made clear that although a patron may be wealthy, that did not necessarily indicate that the source of their funds was legitimate.⁵⁰ When considered in the context of the limited AML guidance available to the gaming industry at the time, this statement was ahead of its time and a proactive step in the right direction. Dr. German also noted that the Kroeker 2011 Summary Review was prescient regarding the importance of law enforcement to tackle the broader money laundering issue.⁵¹

19. Finally, although not intended to completely solve the cash issue⁵², Mr. Kroeker's

⁴⁷ Testimony of R. Kroeker (Jan. 26, 2021), pp. 172-173; L. Meilleur (Mar. 10, 2021), p. 87; S. MacLeod (Apr. 19, 2021), p. 20.

⁴⁸ Testimony J. Karlovcec (Oct. 29, 2020), pp. 109, 121; S. Birge (February 3, 2021), pp. 34-35; D. Scott (February 8, 2021), pp. 37, 105.

⁴⁹ Testimony of P. German (April 12, 2021), p. 14; Commission Exhibit 832, "Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos" [German Report], para. 453.

⁵⁰ Mr. Kroeker recommended that BCLC change its view that gaming losses on the part of a patron suggest the patron is not involved in money laundering or other related criminal activity: Past Recommendations OR, Appendix E, 2011 Summary Review, p. 3.

⁵¹ Testimony of P. German (Apr. 12, 2021), pp. 14-15. Mr. Kroeker recommended that GPEB establish formal relationships with police of jurisdiction and that the Province create a cross-agency task force to investigate and gather intelligence: Past Recommendations OR, Appendix E, 2011 Summary Review, p. 3.

⁵² Testimony of D. Scott (February 8, 2021), pp. 31, 105

recommendation to move patrons off cash and onto traceable cash alternatives had significant impacts with respect to the number and volume of large cash transactions (“LCTs”), suspicious transaction reports (“STRs”), and the volume of cash coming into casinos.⁵³ Doug Scott, former General Manager of GPEB, testified that implementing cash alternatives was an “important baseline” and a “key foundational piece” to the AML Strategy.⁵⁴

20. Prior to 2012, the gaming industry was mandated by government to essentially be cash-only.⁵⁵ As betting limits increased, so did the amount of cash in the system.⁵⁶ Cash alternatives were intended to move legitimate patrons away from cash (which allowed the remaining cash to be scrutinized), and addressed public safety risks involved in carrying large volumes of cash.⁵⁷ Although moving patrons to cash alternatives was a challenging endeavour after two decades of casinos being cash-only businesses⁵⁸, between April 2012 and October 2012, \$42.7M of cash had been taken out of the system.⁵⁹

21. The most well-utilized and impactful cash alternative was the PGF account, which was made more convenient and accessible following the 2011 Summary Review.⁶⁰ As a result of the enhancements, there was a significant uptake in the number of accounts opened, and the dollar value in the accounts.⁶¹ Later, in 2015 and 2016, many of the patrons BCLC placed on sourced

⁵³ Cuglietta Affidavit #1, Exhibit A; Testimony of G. Friesen (Oct. 28), p. 67; T. Towns (Feb. 1, 2021), p. 12; C. Wenezenki-Yolland (April 21, 2021), p. 17; D. Scott (February 8, 2021), p. 31.

⁵⁴ Testimony of D. Scott (Feb. 8, 2021), p. 31.

⁵⁵ Kroecker Affidavit #1, para. 30.

⁵⁶ Testimony of G. Friesen (Oct. 29, 2020), pp. 1-2, 51; S. Lee (Oct. 27, 2020), p. 110.

⁵⁷ Testimony of D. Scott (February 8, 2021), p. 32; Testimony of D. Tottenham (Nov. 10, 2020), pp. 182-183. G. Friesen (Oct. 28, 2020), p. 67; (Oct. 29, 2020), p. 15; W. Soo (Febr. 9, 2021), p. 38; Commission Exhibit 559, Affidavit #1 of Walter Soo, paras. 42-43, 84, 112; R. Duff (Jan. 25, 2021), p. 29; J. Mazure (Feb. 5, 2021), p. 231.

⁵⁸ Testimony of B. Smith (February 4, 2021), p. 148.

⁵⁹ Commission Exhibit 517, Affidavit #1 of T. Towns, Exhibit 49, Email to J. Lightbody from T. Towns (Oct. 10, 2012).

⁶⁰ Testimony of G. Friesen (Oct. 28, 2020), p. 67.

⁶¹ Testimony of T. Towns (February 1, 2021), p. 12.

cash conditions moved to PGF accounts and continued to play using traceable cash alternatives.⁶²

In 2017, GPEB credited cash alternatives—specifically PGF accounts—for the decline in suspicious cash entering BC casinos.⁶³

22. Despite the positive impacts of Mr. Kroeker’s Review, the delays in obtaining GPEB’s approval for cash alternatives undermined the immediate and overall effectiveness of this recommendation. Although the Province established a roll-out schedule for its three-phased AML Strategy, the delay in approval of cash alternatives meant that it sometimes took years to implement these measures.⁶⁴ The delay in implementing cash alternatives consequently pushed back phase 3 of the AML Strategy, regulatory intervention, which was originally set to begin in December 2013.⁶⁵ As a result, it not only took longer to move patrons over to traceable instruments, but this delay pushed back GPEB’s intended regulatory response.

23. Finally, the failure of the Province and GPEB to implement three of Mr. Kroeker’s recommendations arguably undermined the overall impact of his Summary Review. The Province held off creating a cross-agency task force to investigate and gather intelligence.⁶⁶ While this recommendation was intended to be delayed until the government could evaluate the effectiveness of the other recommendations, it was only in 2016, with the creation of JIGIT, that a unit was created that brought together multiple agencies to analyze transactions and gather intelligence. The recommendations that GPEB formally involve the police of jurisdiction and

⁶² Testimony of J. Lightbody (January 28, 2021), p. 64.

⁶³ Meilleur Affidavit #1, Exhibit III, Memo from Meilleur to Mazure (Apr. 6, 2017), p. 4

⁶⁴ Testimony of S. Birge (February 3, 2021), p. 18-19; L. Meilleur (March 10, 2021), p. 30; C. Wenezenki-Yolland (April 27, 2021), pp. 52-53, 119-120; G. Friesen (Oct. 29, 2020), p. 15; J. Lightbody (February 1, 2021), pp. 18-19.

⁶⁵ Testimony of J. Mazure (February 5, 2021), pp. 20, 33-34, 185; D. Scott (February 8, 2021), pp. 16, 29, 38-39, 40, 124; Testimony of L. Meilleur (March 10, 2021), pp. 33, 37-39; C. Wenezenki-Yolland (April 27, 2021), p. 119.

⁶⁶ Commission Exhibit 888, Confidential Issues Note: Gaming Review: AML Strategy Update (August 24, 2011), p. 5.

establish more formal contacts and relationship with governance and enforcement agencies in other jurisdictions were also not implemented.⁶⁷ GPEB never established a formal information sharing agreement (“ISA”) with police. These may have been missed opportunities.

2012–2015: GCGC Vice President, Compliance and Legal

24. In 2012, GCGC’s board and CEO sought to fill the position of Vice President of its Compliance and Legal department with the most qualified person, whose key competency was AML and compliance.⁶⁸ GCGC believed that Mr. Kroeker was “the best person in the province” to fill that role.⁶⁹ Mr. Kroeker was brought in as VP Compliance and Legal in December 2012.⁷⁰ Mr. Kroeker was not just responsible for casinos in British Columbia – his responsibility included all facilities nationally and some in the United States.⁷¹

A. The role of service providers in devising AML policy is limited or non-existent

25. The role of SP in BC is limited to being “policy-takers” with respect to AML controls: BCLC and GPEB devise the AML controls that SPs are required to follow.⁷² Service providers like GCGC do not have the authority to issue policies that, for example, restrict the amount of cash someone could bring into the casino.⁷³ Had GPEB or BCLC implemented such a policy, GCGC would have followed that direction.⁷⁴ During Mr. Kroeker’s tenure at GCGC, no direction or guidance

⁶⁷ Past Recommendations OR, Appendix E, 2011 Summary Review, p. 4. Although GPEB established informal relationships with police of jurisdiction and other police agencies, GPEB only entered into formal arrangements with police of jurisdiction in 2016, when JIGIT was created: Testimony of L. Meilleur (March 10, 2021), pp. 54, 58.

⁶⁸ Testimony of T. Doyle (February 9, 2021), pp. 139-140; T. Doyle (February 10, 2021), p. 93.

⁶⁹ Testimony of T. Doyle (February 10, 2021), p. 93.

⁷⁰ Kroeker Affidavit #1, para. 32.

⁷¹ Testimony of P. Ennis (February 4, 2021), pp. 30-31.

⁷² Testimony of S. Beeksma (Oct. 26, 2021), p. 114; G. Friesen (Oct. 29, 2021), p. 11; R. Kroeker (Jan. 25, 2021), p. 108; R. Kroeker (Jan. 26, 2021), pp. 119-120.

⁷³ Testimony of R. Kroeker (Jan. 26, 2021), pp. 119-120; G. Friesen (Oct. 29, 2020), p. 11. See also Testimony of K. Ackles (Nov. 2, 2020), pp. 12-121.

⁷⁴ Testimony of L. Vander Graaf (Nov. 13, 2020), pp. 72, 77-78; Commission Exhibit 181, Affidavit of Larry Vander Graaf, Exhibit AA, p. 261; Testimony of R. Barber (Nov. 3, 2020), p. 93.

restricting cash or requiring that SOFs be established was issued by GPEB, BCLC, or the Province.⁷⁵

B. Mr. Kroeker went above and beyond what was required of him

26. Despite the limitations in what GCGC could do, Mr. Kroeker did not simply accept the status quo: he engaged police, closely monitored various AML issues, and was persistent in advocating for BCLC and GPEB to take a more proactive role on the cash issue.⁷⁶ Although no one—not GCGC, BCLC, GPEB or police—had any evidence substantiating that the cash entering casinos was POC, Mr. Kroeker was diligent and proactive in addressing issues as they arose.⁷⁷ He brought up concerns and worked collaboratively on solutions with BCLC.⁷⁸ Under his leadership, and given the importance of data-driven action, GCGC undertook analyses of the large cash transactions and increased monitoring.⁷⁹

27. Mr. Kroeker often took a stricter approach to compliance than what BCLC or federal legislation required. For example, at the time, BCLC allowed third party transactions in some circumstances, and Mr. Kroeker took issue with allowing any third-party transactions.⁸⁰ Similarly, after an incident in which a patron was paid out by GCGC staff in \$100 bills instead of the \$20 bills of his buy in, Mr. Kroeker told BCLC that its investigators should have interviewed cage staff to correct this behaviour, which could be indicative of “colouring up”.⁸¹ He also encouraged BCLC

⁷⁵ Testimony of J. Karlovcec (Oct. 29, 2020), p. 106; (Oct. 30, 2020), p. 85; R. Barber (Nov. 3, 2020), p. 93; L. Vander Graaf (Nov. 12, 2020), p. 92; (Nov. 10, 2020), pp. 53, 56-57; D. Scott (Feb. 8, 2021), pp. 90, 143; L. Meilleur (Feb. 12, 2021), pp. 17, 20, 90-91; S. Beeksma (Oct. 26, 2020), p. 128; M. Hiller (Nov. 9, 2020), p. 106; G. Friesen (Oct. 29, 2021), p. 11.

⁷⁶ Testimony of J. Karlovcec (Oct. 30, 2020), p. 152; R. Kroeker (Jan. 25, 2021), pp. 103-104.

⁷⁷ Testimony of M. Paddon (Apr. 14, 2021), pp. 148-149; C. Chrustie (Mar. 29, 2021), p. 123-125; B. Baxter (Apr. 8, 2021), pp. 126-127, 174; S. Beeksma (Oct. 26, 2020), pp. 148-149, 159, 162; R. Kroeker (Jan. 25, 2021), pp. 187-189; S. Lee (Oct. 27, 2020), pp. 98, 113; J. Karlovcec (Oct. 29, 2020), pp. 108-109; D. Tottenham (Nov. 4, 2020), pp. 10, 63; D. Tottenham (Nov. 10, 2020), pp. 81-82.; M. Hiller (Nov. 9, 2020), p. 120; L. Vander Graaf (Nov. 13, 2020), p. 32; J. Lightbody (Jan. 28, 2021), p. 35-37.

⁷⁸ Kroeker Affidavit #1, para. 40, 47. See also Testimony of D. Tottenham (Nov. 10, 2020), p. 72.

⁷⁹ Kroeker Affidavit #1, paras. 41-43, 46-47; Testimony of R. Kroeker (Jan. 25, 2021), p. 96.

⁸⁰ Kroeker Affidavit #1, para. 45; Exhibit 7.

⁸¹ Commission Exhibit 129, Email from Kroeker to Karlovcec, Desmarais (Jan. 7, 2015), p. 1; Testimony of J. Karlovcec (Oct. 30, 2020), pp. 53, 154.

to issue province-wide bans of GCGC customers.⁸² Mr. Kroeker’s efforts to assess and monitor River Rock’s chip liability led BCLC and GCGC to undertake a chip swap in 2015.⁸³ Finally, Mr. Kroeker pushed for BCLC investigators to question patrons even though, at this time, no one in the gaming industry was interviewing patrons.⁸⁴

28. Mr. Kroeker was also “instrumental” in engaging police and in supporting BCLC’s efforts to develop deeper connections with police of jurisdiction and to encourage police to investigate the cash.⁸⁵ Mr. Kroeker had periodic meetings with law enforcement agencies, and it appeared for a time that police were investigating, but as more time passed, Mr. Kroeker grew increasingly concerned by the lack of investigation into POC or ML at casinos.⁸⁶ He continued to assess and monitor play, ensure STRs were filed, and ban patrons where appropriate – but acting within the existing operational structure and taking his cues from police, there was only so much GCGC could do without law enforcement investigating.⁸⁷

C. BCLC and law enforcement approved of GCGC’s approach to AML

29. Importantly, during Mr. Kroeker’s tenure at GCGC, both BCLC⁸⁸ and police approved of GCGC’s approach to AML. RCMP Insp. Eric Hall advised Mr. Kroeker in April 2014 that the RCMP did “not have a concern about money laundering at the River Rock”, he did not believe casinos in BC could be used in a sophisticated ML operation with the existing controls in place and casinos

⁸² Kroeker Affidavit #1, para. 52, Exhibit 10.

⁸³ Kroeker Affidavit #1, paras. 69-71; Testimony of R. Kroeker (Jan. 25, 2021), pp. 109-110.

⁸⁴ Testimony of R. Kroeker (Jan. 25, 2021), pp. 105-106.

⁸⁵ Kroeker Affidavit #1, paras. 53-68; Testimony of R. Kroeker (Jan. 25, 2021), pp. 98-99, 101-102, 106-108; B. Desmarais (Feb. 2, 2021), pp. 92, 123; J. Karlovcec (Oct. 30, 2020), pp. 19, 151-152.

⁸⁶ Kroeker Affidavit #1, paras. 53-68; Testimony of B. Desmarais (Feb. 2, 2021), p. 123; R. Kroeker (Jan. 25, 2021), p. 101-102, 106-107.

⁸⁷ Kroeker Affidavit #1, para. 65.

⁸⁸ Testimony of B. Desmarais (Feb. 2, 2021), p. 89; G. Friesen (Oct. 29, 2020), p. 14.

would never be able to determine the SOF of the cash spent in casinos without police.⁸⁹ Up until Mr. Kroeker left GCGC and became privy to different information emanating from police upon joining BCLC, his actions were premised on these facts and this understanding.⁹⁰

2015–2019: BCLC Vice President of Corporate Security and Compliance

30. In September 2015, Mr. Kroeker joined BCLC as VP of Corporate Security and Compliance. In this role, he took active steps to address potential ML/POC in casinos, supporting BCLC’s AML Unit with respect to people, funding, resources, and analytics without any hesitation.⁹¹ Mr. Tottenham testified that there was “continuous movement forward” under Mr. Kroeker’s leadership.⁹²

A. “The proof is in the pudding”: Mr. Kroeker took action

31. Immediately upon assuming the role of VP Corporate Security and Compliance, Mr. Kroeker was briefed on BCLC’s recently implemented cash condition program.⁹³ At the same time, he learned that BCLC had recently received information from police that some of the cash entering the casinos was POC and directly linked to organized crime.⁹⁴ To Mr. Kroeker, this new information was concerning and required immediate attention.⁹⁵

32. Within his first month at BCLC, Mr. Kroeker responded to this information by formalizing and expanding BCLC’s cash condition program, which then accelerated rapidly under his

⁸⁹ Kroeker Affidavit #1, Exhibit 13, Email from RCMP Eric Hall to Kroeker (April 30, 2014). See also Testimony of R. Kroeker (Jan. 25, 2021), p. 100; R. Kroeker (Jan. 26, 2021), p. 32, 117.

⁹⁰ Kroeker Affidavit #1, para. 61.

⁹¹ Testimony of J. Karlovcec (Oct. 30, 2020), pp. 174-175; D. Tottenham (Nov. 10, 2020), pp. 126-127.

⁹² Testimony of D. Tottenham (Nov. 10, 2020), pp. 10, 144.

⁹³ Kroeker Affidavit #1, para. 97.

⁹⁴ *Ibid*, para. 98.

⁹⁵ *Ibid*, para. 98.

leadership.⁹⁶ Cash conditions began being applied to a broader number of patrons, with the initial goal of placing all of BCLC's biggest patrons on sourced cash conditions.⁹⁷ By January 2016, there were 274 patrons with public safety barrings, 173 players on conditions, 69 players on sourced conditions, and an additional 91 patrons flagged for profiling.⁹⁸ Since, the number of conditioned and banned patrons has continued to grow.

33. Throughout Mr. Kroeker's tenure at BCLC, FinTRAC remained satisfied with BCLC's performance with respect to AML.⁹⁹ FinTRAC gave feedback that BCLC's CDD and enhanced due diligence was "very effective", that BCLC was a leader in Canada's gaming industry, and that BCLC had more controls than other jurisdictions (which often looked to BCLC for guidance).¹⁰⁰ BCLC continually met or beat federal requirements and contemporaneous industry standards.¹⁰¹

34. FinTRAC's comments are not surprising given BCLC's approach: Mr. Kroeker and BCLC were committed to addressing ML risk and developing novel strategies to do so. The cash conditions program in which BCLC required patrons to establish SOF was extraordinarily novel.¹⁰² The former GM of GPEB, Mr. Mazure, testified that BCLC's CDD for determining SOW and SOF was a new and evolving measure within the industry.¹⁰³ Indeed, when this program was

⁹⁶ Kroeker Affidavit #1, para. 99; Testimony of R. Alderson (Sept. 10, 2021), p. 65; S. Lee (Oct. 27, 2021), p. 117; S. Beeksma (Oct. 26, 2020), p. 151.

⁹⁷ Testimony of D. Tottenham (Nov. 5, 2020), p. 3; R. Alderson (Sept. 10, 2021), p. 55-56.

⁹⁸ Kroeker Affidavit #1, para. 102, Exhibit 29.

⁹⁹ Testimony of J. Karlovcec (Oct. 30, 2020), p. 62; D. Tottenham (Nov. 5, 2020), p. 38; J. Lightbody (Jan. 29, 2021), pp. 2-3, 29, 98-99; R. Kroeker (Jan. 25, 2021), pp. 185-186.

¹⁰⁰ Testimony of J. Lightbody (Jan. 29, 2021), pp. 29, 98-99; G. Friesen (Oct. 29, 2020), p. 63; R. Kroeker (Jan. 25, 2021), pp. 185-186; M. Hiller (Nov. 9, 2020), p. 139; J. Karlovcec (Oct. 30, 2020), pp. 81, 157-158; D. Tottenham (Nov. 4, 2020), p. 102; D. Tottenham (Nov. 5, 2020), p. 5; D. Tottenham (Nov. 10, 2020), p. 193; B. Desmarais (Feb. 2, 2021), pp. 79-80, 134; P. Ennis (Feb. 4, 2021), p. 5

¹⁰¹ Testimony of J. Lightbody (Jan. 29, 2021), pp. 71, 98-99; M. Hiller (Nov. 9, 2020), p. 141; J. Karlovcec (Oct. 30, 2020), p. 175

¹⁰² EY AML Practices Report, paras. 5.3, 5.5, 5.12, 5.15, 5.85, 5.89; Testimony of D. Tottenham (Nov. 5, 2020), p. 5; D. Tottenham (Nov. 10, 2020), pp. 193-194; P. Ennis (Feb. 4, 2021), p. 3; M. de Jong (Apr. 23, 2021), p. 144; B. Boyle (Sept. 13, 2021), p. 41.

¹⁰³ Testimony of J. Mazure (Feb. 5, 2021), p. 189.

implemented, no other jurisdiction had SOF interviews.¹⁰⁴ No other jurisdiction was proactively banning players.¹⁰⁵ Likewise, BCLC's AML unit was a novel creation.¹⁰⁶ As Mr. Desmarais testified, BCLC was ahead of the curve, and in some cases, well ahead of the curve.¹⁰⁷

35. Oddly, throughout Mr. Kroeker's time at BCLC, some members of GPEB alleged that BCLC's focus was on meeting federal requirements, and that BCLC refused to take additional action above and beyond those requirements.¹⁰⁸ Yet the evidence is clear that BCLC, under Mr. Kroeker's leadership, continually implemented AML policies that went beyond federal requirements. As ADM Richard Fyfe testified, "BCLC was always looking to improve".¹⁰⁹

36. Under Mr. Kroeker's leadership, some of the AML policies and controls that were implemented include:

- In September 2015, Mr. Kroeker formalized and expanded the cash condition program to apply whenever there were any concerns about SOF¹¹⁰;
- In September 2015, Mr. Kroeker reversed the previous direction from AML Director Mr. Alderson that investigators could not initiate patron barrings for cash facilitation on their own initiative¹¹¹;
- After JIGIT was created, Mr. Kroeker immediately amended the ISA with the RCMP to ensure JIGIT had access to the same information as the rest of the RCMP¹¹²;
- In 2016, Mr. Kroeker tightened controls around chips to minimize the risk that chips would be taken off casino property and used for illicit purposes¹¹³;
- In May 2016, BCLC's AML Unit identified further high-risk players and established a formal

¹⁰⁴ EY AML Practices Report, at paras. 5.111; Testimony of B. Boyle (Sept. 13, 2021), pp. 72–73; R. Kroeker (January 26, 2021), p. 100; J. Karlovcec (Oct. 30, 2020), pp. 81, 157.

¹⁰⁵ Testimony of J. Karlovcec (Oct. 30, 2020), pp. 157-158.

¹⁰⁶ Testimony of D. Tottenham (Nov. 10, 2020), p. 193.

¹⁰⁷ Testimony of B. Desmarais (Febr. 2, 2021), pp. 79-80.

¹⁰⁸ See e.g. Commission Exhibit 587, Affidavit #1 of Len Meilleur [Meilleur Affidavit #1], Exhibit XXX at p. 2, Exhibit UUU; Commission Exhibit 707, Len Meilleur Talking Points, p. 3. John Mazure, GPEB's GM from 2013-2018 agreed that BCLC exceeded FinTRAC requirements: Testimony of J. Mazure (Feb. 11, 2021), p. 119.

¹⁰⁹ Testimony of R. Fyfe (April 29, 2021), p. 127.

¹¹⁰ Testimony of D. Tottenham (November 10, 2021), p. 144; R. Kroeker (Jan. 25, 2021), p. 120; R. Kroeker (Jan. 26, 2021), pp. 97, 161; Steve Beeksma (Oct. 26, 2020), p. 58; R. Alderson (Sept. 10, 2021), pp. 64–68, 73. See Commission Exhibit 1031, BCLC Investigations Protocol for Educating Warning, Sanctioning Or Barring Patrons (April 16, 2015); Kroeker Affidavit #1, Exhibit 27, Oct. 2015 BCLC Protocol.

¹¹¹ Testimony of R. Kroeker (Jan. 25, 2021), pp. 112, 120.

¹¹² Kroeker Affidavit #1, para. 178.

¹¹³ Kroeker Affidavit #1, para. 136.

interview process to establish their SOF¹¹⁴;

- In October 2016, BCLC implemented a directive requiring SPs to refuse cash transactions where casino staff observe suspicious behaviour, including where casino staff observed patrons receive cash from cash facilitators in real time, and a process to ensure the buy-in was not accepted at other casinos¹¹⁵;
- In June 2017, Mr. Kroeker on behalf of BCLC executed an ISA with the CFO to enhance BCLC's ability to conduct due diligence and combat ML¹¹⁶;
- In December 2017, BCLC issued a directive requiring a receipt in respect of bank drafts to ensure funds were properly sourced;¹¹⁷
- In January 2018, BCLC enhanced Dr. German's SOF recommendation by requiring a same-day receipt on top of the SOF declaration (a practice unique to BC¹¹⁸), and by not implementing the exception proposed by Mr. German for new customers;¹¹⁹
- In March 2018, BCLC implemented a directive de-risking MSBs, meaning that funds could not be sourced from these entities as they created too great a ML risk;¹²⁰ and
- From September 2015–July 2019, Mr. Kroeker developed and implemented various cash alternatives including international electronic funds transfers and enhanced convenience cheques.¹²¹

Again in an effort to bring about evidence-based policies and practices, many of these changes were the subject of study and analysis by BCLC well before they were ready for implementation.

37. In addition to these changes, BCLC continued to proactively evaluate other areas for improvement, including facial recognition technology, enterprise-wide BCLC accounts, allowing third party transactions to mitigate risk of foreign patrons using the informal value transfer system and cash facilitators, and continually updating its resources for CDD.¹²²

38. Although there has been some suggestion that BCLC should have moved to a prescriptive approach earlier on, either by implementing a cash cap or introducing across-the-board SOF,

¹¹⁴ Tottenham Affidavit #1, Exhibit 49, Reduction in STR Initiative (May 2016).

¹¹⁵ Commission Exhibit 78, Affidavit #1 of Steve Beeksma, para. 72, Exhibit M; Testimony of R. Kroeker (January 26, 2021), p. 163.

¹¹⁶ Kroeker Affidavit #1, para. 176; Exhibit 92.

¹¹⁷ Testimony of J. Karlovcec (Oct. 30, 2020), p. 170.

¹¹⁸ Testimony of B. Boyle (Sept. 13, 2021), pp. 70–71, 97–98.

¹¹⁹ Kroeker Affidavit #1, paras. 225-229.

¹²⁰ Tottenham Affidavit #1, at para. 159, Exhibit 54; Kroeker Affidavit #1, at paras. 209-221; Testimony of B. Desmarais (Feb. 2, 2021), p. 135; S. Beeksma (Oct. 26, 2020), pp. 157-159; J. Lightbody (Jan. 28, 2021), p. 91; J. Lightbody (Jan. 29, 2021), p. 120. This policy was also unique to BC: Testimony of B. Boyle (Sept. 13, 2021), pp. 131–132.

¹²¹ Kroeker Affidavit #1, para. 139-142.

¹²² *Ibid* at paras. 238-420.

many considerations weighed against such a shift earlier on in Mr. Kroeker’s tenure, if at all. First, and most importantly, BCLC began by amplifying and taking significant action on a risk-basis in 2015. The decline in cash, LCTs, and STRs continued as this program progressed and BCLC moved from targeting its highest risk players, to players of lower risk.¹²³ Stone Lee, a BCLC Investigator on the casino floor, testified that “BCLC stopped seeing the \$300K and \$400K [cash] buy-ins” that had previously been commonplace: BCLC had nearly resolved the cash issue years before the 2018 source of funds declaration was implemented.¹²⁴

39. In 2015 and 2016, all parties also continued to gather information to determine what more should be done to address the cash issue.¹²⁵ As GPEB’s GM John Mazure testified, “our concern was growing but we didn’t have enough information.”¹²⁶ All parties’ awareness and understanding of what was going on, and how to fix it, evolved as time went on.¹²⁷ From BCLC’s perspective, strong new programs had been implemented in 2015 and were expanded as time went on, including BCLC’s cash condition program and corresponding SOF interviews. A prescriptive approach – contrary to FinTRAC, FATF, expert guidance and industry guidance¹²⁸ – was potentially inadvisable when the effects of BCLC’s risk-based approach to AML had not yet been fully realized. This is particularly true, as Mr. Mazure testified, because the “intent was always to get the illicit funds out of the system without impacting the legitimate business”.¹²⁹ Moving to a prescriptive approach too quickly risked significantly impacting legitimate players

¹²³ Testimony of B. Desmarais (Feb. 2, 2021), pp. 35-36, 81, 157.

¹²⁴ Testimony of S. Lee (Oct. 27, 2020), pp. 63, 117-118.

¹²⁵ Testimony of S. Birge (Feb. 3, 2021), p. 19; J. Mazure (Feb. 5, 2021), pp. 11-12, 14-15, 19-20, 51; K. Ackles (Nov. 2, 2020), pp. 108-109.

¹²⁶ Testimony of J. Mazure (Feb. 11, 2021), p. 123.

¹²⁷ Testimony of D. Scott (Feb. 8, 2021), pp. 64-65.

¹²⁸ Testimony of B. Boyle (Sept. 13, 2021), pp. 93-94, 86; EY AML Practices Report, paras. 5.3, 5.5, 5.12, 5.15.

¹²⁹ Testimony of J. Mazure (Feb. 11, 2021), pp 118-119.

and the legitimate gaming industry.¹³⁰

40. Moreover, neither GPEB nor the Province ever communicated to BCLC that it should implement a prescriptive approach. Mr. de Jong, the responsible Minister at the time, testified that both he and the Province had a “marked preference” for a risk-based approach.¹³¹ He noted that throughout 2016, the volume and value of suspicious cash was “decreasing significantly”.¹³² Likewise, GPEB favoured the risk-based approach to regulate BC casinos.¹³³ GPEB’s GM had the authority to implement measures without Ministerial approval,¹³⁴ but did not do so.¹³⁵ As Mr. Meilleur testified, GPEB considered implementing a cash cap, but never made this direction.¹³⁶

41. While there has been some suggestion that GPEB and government communicated their intention for BCLC to implement across-the-board SOF in the late summer and early fall of 2015, the evidence is clear that Minister de Jong’s intention – which was clarified by Mr. Lightbody personally – was for BCLC to continue with its risk-based approach.¹³⁷ If GPEB or government wanted BCLC to substantially lower its risk tolerance, it never clearly stated as much to BCLC – and certainly not to Mr. Kroeker.¹³⁸ In reality, it would have been difficult for them to do so when they appeared to have an unclear sense of what BCLC’s risk tolerance was: indeed, the only witnesses who testified that BCLC was not doing enough – Mr. Mazure and Ms. Wenezenki-

¹³⁰ See Testimony of J. Mazure (Feb. 11, 2021), pp. 118-119.

¹³¹ Testimony of M. de Jong (April 23, 2021), p. 12.

¹³² Testimony of M. de Jong (April 23, 2021), pp. 96, 115-118, 140.

¹³³ Testimony of J. Mazure (Feb. 5, 2021), p. 233; J. Lightbody (Jan. 29, 2021), pp. 116-117, 121, 123; B. Demarais (Feb. 2, 2021), p. 130.

¹³⁴ Testimony of J. Mazure (Feb. 5, 2021), pp. 53, 55; C. Wenezenki-Yolland (April 27, 2021), p. 165.

¹³⁵ Testimony of J. Mazure (Feb. 5, 2021), pp. 49; B. Demarais (Feb. 2, 2021), p. 130; J. Lightbody (Jan. 29, 2021), p. 116-117, 121, 123; R. Kroeker (Jan. 26, 2021), p. 171; L. Meilleur (Feb. 12, 2021), pp. 20, 90-91, 113, 130-131. This is so despite the fact that Jermone Malysh recommended that GPEB implement a cash cap in his 2014 Review: Testimony of J. Mazure (Feb. 5, 2021), p. 12, 191-192.

¹³⁶ Testimony of L. Meilleur (Feb. 12, 2021), pp. 90-91. See also Meilleur Affidavit #1 at paras. 181, 193.

¹³⁷ Testimony of M. de Jong (April 23, 2021), pp. 90, 91, 92, 94, 140; J. Mazure (Feb. 5, 2021), pp. 230, 232, 233. See also Testimony of J. Lightbody (Jan. 28, 2021), pp. 49-51; B. Smith (Feb. 4, 2021), pp. 72-75, 118.

¹³⁸ Testimony of J. Mazure (Feb. 11, 2021), p. 142.

Yolland¹³⁹ – had great difficulty articulating what it was that they believed BCLC was in fact doing.¹⁴⁰ Such self-serving comments are thus of little assistance and ought to carry no weight.¹⁴¹

42. BCLC complied with all requests from GPEB and government, including the requests set out in the August 7, 2015 letter from Mr. Mazure to Mr. Lightbody, and the October 1, 2015 letter from then-Minister de Jong to Mr. Smith: BCLC continued to expand the SOF program and lower its risk tolerance for unsourced funds.¹⁴² Mr. Tottenham explained that BCLC’s cash condition program was “a building process”, BCLC progressively lowered its risk tolerance for unsourced cash from higher to lower risk patrons.¹⁴³ BCLC was continually expanding its AML program and improving its CDD policies and practices.¹⁴⁴ Mr. Alderson testified that BCLC was already doing what was set out in this letter, and that the letter was a result of E-Pirate.¹⁴⁵ Indeed, Mr. de Jong testified that BCLC was acting upon his direction.¹⁴⁶ Although BCLC would have complied with any direction from government or GPEB¹⁴⁷, it was never asked to do more.¹⁴⁸ Mr. Scott testified

¹³⁹ Testimony of J. Mazure (Feb. 11, 2021), pp. 126-127, 134; C. Wenezeki-Yolland (Apr. 27, 2021), pp. 129-130.

¹⁴⁰ Testimony of C. Wenezeki-Yolland (Apr. 27, 2021), pp. 127; J. Mazure (Feb. 5, 2021), pp. 227-229.

¹⁴¹ The comments are all the more disingenuous when coming from a witness – the General Manager of GPEB from 2013 through to 2018, Mr. Mazure – who had the ability *and* authority to do more in his own capacity, and who failed to take the decisive action he could have taken: Testimony of C. Wenezeki-Yolland (April 27, 2021), p. 165; J. Mazure (Feb. 5, 2021), pp. 48-49, 53, 55, 150. For all of his expressions of concern about BCLC and in respect of his own helplessness in his 2021 evidence before the Commission, Mr. Mazure certainly failed to abide by the dictum “where there’s a will, there’s a way”. This tends to belie the suggestion that Mr. Mazure in fact had such a significant level of concern about BCLC at the relevant time.

¹⁴² Testimony of J. Lightbody (Jan. 28, 2021), pp. 40-41, 51-52; J. Lightbody (Jan. 29, 2021), p. 32; B. Desmarais (Feb. 2, 2021), p. 108; J. Mazure (Feb. 5, 2021), pp. 227-228.

¹⁴³ Testimony of D. Tottenham (Nov. 4, 2021), pp. 191-192; D. Tottenham (Nov. 5, 2021), p. 3. See also Testimony of J. Lightbody (Jan. 28, 2021), p. 51.

¹⁴⁴ Testimony of J. Lightbody (Jan. 28, 2021), p. 41; R. Kroeker (Jan. 25, 2021), p. 200.

¹⁴⁵ Testimony of R. Alderson (Sept. 10, 2021), p. 221–222.

¹⁴⁶ Testimony of M. de Jong (April 23, 2021), p. 156, 163-164.

¹⁴⁷ Testimony of B. Desmarais (Feb. 2, 2021), p. 131; f J. Karlovcec (Oct. 30, 2020), pp. 202–203; D. Tottenham (Nov. 10, 2020), pp. 157-158; D. Scott (Feb. 8, 2021), p. 97.

¹⁴⁸ Testimony of B. Desmarais (Feb. 2, 2021), pp. 39-40, 130, 130; G. Friesen (Oct. 28, 2020), p. 61; J. Lightbody (Jan. 28, 2021), pp. 52; J. Lightbody (Jan. 29, 2021), pp. 12, 23-24, 31, 120-121, 123; B. Smith (Feb. 4, 2021), p. 73; J. Mazure (Feb. 5, 2021), p. 12, 48-49, 53, 150, 192; R. Kroeker (Jan. 25, 2021), pp. 127, 171; L. Meilleur (Feb. 12, 2021), pp. 20, 90-91, 130-131; R. Fyfe (Apr. 29, 2021), p. 14.

that “BCLC had done everything GPEB had asked and agreed to as part of the AML strategy”.¹⁴⁹

As former Minister de Jong stated, “the proof is in the pudding”: through 2016, significant progress was being made in reducing STRs and cash.¹⁵⁰ The current GM of GPEB, Mr. MacLeod, testified that he has not issued a directive to BCLC because he has “not seen the need”.¹⁵¹

43. Where there were concerns, Mr. Kroeker undertook appropriate analyses to inform BCLC’s response.¹⁵² For example, in 2015, ML concerns were raised regarding a specific patron’s slot play.¹⁵³ After analyzing the patron’s gaming history, it was clear he was not laundering, but Mr. Kroeker commissioned a study to ensure BCLC was not vulnerable.¹⁵⁴ Although the analysis indicated the ML risk in slot machines was not substantial, he pursued a new technology that would further enhance BCLC’s controls to ensure all risks were dealt with.¹⁵⁵

44. In 2017 after it was announced that nine casino patrons had been arrested, Mr. Kroeker asked for analysis to be done on buy-in methods to determine whether the drop in unusual financial transactions was specific for certain players or if it applied across the board, to ensure that patrons were not altering their play to avoid attention.¹⁵⁶

45. Likewise, after allegations that bank drafts were being used to launder funds, BCLC, under Mr. Kroeker’s leadership, did a complete review of more than 7,400 bank drafts to look for anomalies.¹⁵⁷ The same year, numerous media reports alleged “cheques for cash”¹⁵⁸ was

¹⁴⁹ Testimony of D. Scott (Feb. 8, 2021), p. 97.

¹⁵⁰ Testimony of M. de Jong (April 23, 2021), p. 156.

¹⁵¹ Testimony of S. MacLeod (April 19, 2021), p. 20.

¹⁵² Testimony of J. Lightbody (Jan. 28, 2021), p. 32; R. Kroeker (Jan. 25, 2021), pp. 149-150.

¹⁵³ Kroeker Affidavit #1, paras. 126-129.

¹⁵⁴ Kroeker Affidavit #1, para. 128.

¹⁵⁵ *Ibid*, paras. 128-129.

¹⁵⁶ Testimony of R. Kroeker (Jan. 25, 2021), p. 136; Kroeker Affidavit #1, para 175; Tottenham Affidavit #1, Exhibit 108.

¹⁵⁷ Testimony of J. Karlovcec (Oct. 30, 2020), p. 79; Kroeker Affidavit #1, paras. 155-161, Exhibits 82, 83.

¹⁵⁸ A typology in which patrons bring in large amounts of cash, engage in little or no play, and cash out by way of cheque.

occurring at BC casinos.¹⁵⁹ As BCLC's controls should have controlled for this type of risk, Mr. Kroeker engaged Ernst & Young to complete a forensic audit of cheques issued by the River Rock over a 3-year period.¹⁶⁰ Ultimately, the audit showed that there were no systemic issues with convenience cheques.¹⁶¹ Importantly for Ms. Wanamaker, this audit provided "hard data" that showed the allegation was unfounded.¹⁶² Minister Eby testified that the EY Report showed that the issue that he had been concerned about as Opposition Critic, was not happening.¹⁶³

46. In January 2018, after Dr. German's SOF recommendation was implemented, BCLC observed an increase in table game buy-ins below \$10,000, which could suggest that patrons were structuring transactions.¹⁶⁴ In response, Mr. Kroeker and BCLC sought to lower the threshold to determine a patron's identity from \$10,000 to \$3,000.¹⁶⁵ BCLC's proposal pre-dated FinTRAC's 2020 regulatory changes that mirrored BCLC's proposal.¹⁶⁶

47. The effect of the changes made under Mr. Kroeker's tenure were significant. Mr. Beeksmas testified that under Mr. Kroeker's leadership, things only improved on AML and there was a "night and day difference" between the mid-2010s and present.¹⁶⁷ The enhanced cash condition program "all but eliminated large cash buy-ins."¹⁶⁸ In 2017, GPEB recognized the downward trend in the total value of cash entering BC casinos, and the number of STRs: by 2017, the value of STRs

¹⁵⁹ Kroeker Affidavit #1, para. 186.

¹⁶⁰ Shortly after the EY Audit was initiated, it was taken over by BCLC's Board of Directors. Mr. Kroeker was no longer involved in giving direction to EY on the conduct of the Audit: Kroeker Affidavit #1, paras. 187-188.

¹⁶¹ Kroeker Affidavit #1, para. 191, Exhibit 99.

¹⁶² Testimony of L. Wanamaker (April 22, 2021), pp. 26, 31.

¹⁶³ Testimony of D. Eby (April 26, 2021), p. 78.

¹⁶⁴ Kroeker Affidavit #1, para. 234.

¹⁶⁵ *Ibid*, para. 234-236.

¹⁶⁶ *Ibid*, para. 237.

¹⁶⁷ Testimony of S. Beeksmas (Oct. 26, 2020), p. 147.

¹⁶⁸ *Ibid*, pp. 81-82.

declined to \$72M, a 60% decline from 2014.¹⁶⁹ Former Minister de Jong testified that he observed a significant downward trend in suspicious transactions and recalled that the number of \$20 bills specifically dropped by 37%.¹⁷⁰ Similarly, former ADM Cheryl Wenezenki-Yolland testified that BCLC was taking active and positive steps, and that suspicious transactions “came down dramatically and they kept coming down.”¹⁷¹ These efforts were expected to reduce revenue, and often did.¹⁷² That did not stop BCLC from making the changes it saw as necessary.¹⁷³

48. Under Mr. Kroeker’s leadership, BCLC was willing to push the envelope to address risk, beyond what GPEB, government, or even FinTRAC¹⁷⁴ felt was necessary. BCLC was responsive to changing circumstances and the evolving risk-tolerances of the public and government. In 2017, the public and political discourse around LCTs indicated a lower risk-tolerance was preferred.¹⁷⁵ In response, BCLC offered to remove high-limit games from BCLC’s gambling options and implement a cash cap given the changing perception of risk in casinos, but these offers were seen as unnecessary and declined by government.¹⁷⁶

B. BCLC faced challenges in implementing AML improvements

49. When Mr. Kroeker arrived at BCLC, the relationship between BCLC and GPEB had been

¹⁶⁹ Lightbody Affidavit #1, Exhibit 57.

¹⁷⁰ Testimony of M. Jong (April 23, 2021), pp. 96, 115-116, 117-118, 140.

¹⁷¹ Testimony of C. Wenezenki-Yolland (April 23, 2021), pp. 127, 131. See also Cuglietta Affidavit #1, Exhibit A, in particular, pp. 5, 6, 10, 16; Kroeker Affidavit #1, paras. 107-111; Commission Exhibit 505, Affidavit #1 of Jim Lightbody, Exhibit 57 [Lightbody Affidavit #1]; Testimony of J. Lightbody (Jan. 29, 2021), pp. 8-9; M. de Jong (Apr. 23, 2021), pp. 96, 115-118, 140-141; J. Mazure (Feb. 5, 2021), pp. 225, 227, 232; B. Desmarais (Feb. 2, 2021), p. 158; D. Tottenham (Nov. 3, 2020), p. 191; K. Ackles (Nov. 2, 2020), pp. 144-146; S. Beeksma (Oct. 26, 2020), pp. 147-148, 150, 154-155; S. Lee (Oct. 27, 2020), pp. 28, 63, 117-118; J. Karlovcec (Oct. 30, 2020), p. 81; M. Hiller (Nov. 9, 2020), pp. 64, 135-136; L. Meilleur (Mar. 20, 2021), p. 88; R. Fyfe (Apr. 29, 2021), p. 127

¹⁷² Commission Exhibit 559, Affidavit #1 of Walter Soo, para. 92.

¹⁷³ Testimony of D. Tottenham (Nov. 3), p. 192; R. Kroeker (Jan. 25, 2021), pp. 122-3; M. de Jong (Apr 23, 2021), p. 52.

¹⁷⁴ Testimony of J. Lightbody (Jan. 29, 2021), p. 76.

¹⁷⁵ *Ibid*, p. 79.

¹⁷⁶ Kroeker Affidavit #1, paras. 19, 86, 182, 198-208; Testimony of R. Kroeker (Jan. 25, 2021), pp. 138-139; J. Lightbody (Jan. 28, 2021), pp. 27-28, 30; B. Smith (Feb. 4, 2021), pp. 89-90; D. Eby (April 26, 2021), pp. 58, 72; Testimony of D. Scott (Feb. 8, 2021), p. 148-149

strained for some time, notwithstanding a number of personnel changes.¹⁷⁷ Mr. Kroeker was cognizant of this historical difficulty, and sought to cultivate a more positive relationship with the regulator.¹⁷⁸ He made efforts with his then-counterpart at GPEB, Mr. Meilleur.¹⁷⁹ These efforts paid off: over time, Mr. Kroeker “absolutely” fostered a better relationship with GPEB.¹⁸⁰

50. Notwithstanding the significant improvements made between 2015 and 2019, Mr. Kroeker grew disappointed as BCLC increasingly faced challenges in improving its AML regime and the relationship deteriorated.¹⁸¹ As a result, when Mr. Kroeker recruited a new Director of AML and Investigations in 2019, a key consideration was how to improve the relationship between BCLC and GPEB.¹⁸² He hired Kevin deBruyckere to fill this role and to lead BCLC’s relationship with GPEB.¹⁸³ He gave evidence that as a result, the current relationship between GPEB and BCLC is “collaborative, positive, [and] respectful”.¹⁸⁴ Likewise, Mr. Skrine testified that he has a great, collaborative and respectful relationship with Mr. deBruyckere.¹⁸⁵

51. Despite these improvements, BCLC was often deprived of audits and information from GPEB that could have informed and improved BCLC’s response during Mr. Kroeker’s tenure. The evidence of BCLC witnesses was unanimous that information sharing flowed one way, from BCLC to GPEB, and that BCLC was often deprived of information that would allow it to respond

¹⁷⁷ Kroeker Affidavit #1, paras. 19, 86.

¹⁷⁸ *Ibid*, paras. 86–87.

¹⁷⁹ Commission Exhibit 1030, Email from Kevin Sweeney re. For Comment (Nov. 7, 2016); Testimony of R. Alderson (Sept. 10, 2021), pp. 49–50.

¹⁸⁰ Testimony of R. Alderson (Sept. 10, 2021), p. 50.

¹⁸¹ Kroeker Affidavit #1, paras. 88–95; Testimony of Cary Skrine (Jan. 27, 2021), p. 102.

¹⁸² Testimony of K. deBruyckere (Jan. 21, 2021), p. 85.

¹⁸³ *Ibid*, p. 84–85, 98.

¹⁸⁴ *Ibid*, p. 98.

¹⁸⁵ Testimony of C. Skrine (Jan. 27, 2021), p. 58-59.

effectively.¹⁸⁶ Mr. Karlovcec testified that getting information from GPEB was “like pulling teeth”.¹⁸⁷ GPEB witnesses also agreed that information, reports, and audits were often not shared with BCLC.¹⁸⁸ In many cases, the information that GPEB did provide to BCLC could not be actioned: Mr. Lee and Mr. Friesen testified that GPEB would often tell BCLC investigators that a patron was a “bad guy”, without providing any specifics or concrete information to act on.¹⁸⁹

52. In other cases, BCLC received information or audits from GPEB too late, after BCLC had independently discovered and addressed the risk.¹⁹⁰ For example, in 2016, GPEB conducted an audit to determine whether BC casinos were accepting cash obtained from provincially banned cash facilitators.¹⁹¹ BCLC did not receive this report until 2017.¹⁹² Although BCLC had taken action in 2016 to address this issue¹⁹³ independent of GPEB’s analysis, this issue could have been addressed earlier had GPEB shared this information. Moreover, GPEB had relied on inaccurate assumptions and errors in the report that remained uncorrected because GPEB failed to share it with BCLC in the first instance, and then failed to discuss the errors BCLC pointed out after receiving it.¹⁹⁴

¹⁸⁶ Testimony of S. Lee (Oct. 27, 2020), p. 114; G. Friesen (Oct. 29, 2020), p. 9; J. Karlovcec (Oct. 30, 2020), p. 162-165, 171-173; D. Tottenham (Nov. 4, 2020), pp. 146, 162-163; J. Lightbody (Jan. 29, 2021), pp. 72–73; B. Smith (Feb. 4, 2021), pp. 156-157, 160-161; R. Kroeker (Jan. 25, 2021), pp. 133-135; (Jan. 26, 2021), pp. 185-187, 192.

¹⁸⁷ Testimony of J. Karlovcec (Oct. 30, 2020), pp. 162-163, 168, 171-173.

¹⁸⁸ Testimony of R. Barber (Nov. 3, 2020), p. 124; K. Ackles (Nov. 2, 2020), p. 16; L. Meilleur (Feb. 12, 2021), pp. 93-95, 97; L. Vander Graaf (Nov. 12, 2020), p. 214.

¹⁸⁹ Testimony of S. Lee (Oct. 27, 2020), p. 113; G. Friesen (Oct. 29, 2020), p. 9.

¹⁹⁰ Testimony of D. Tottenham (Nov. 4, 2020), pp. 110, 161-165.

¹⁹¹ Kroeker Affidavit #1, Exhibit 21.

¹⁹² Testimony of D. Tottenham (Nov. 10, 2020), pp. 161-165.

¹⁹³ *Ibid*, p. 165.

¹⁹⁴ See Commission Exhibit 780, Affidavit #3 of D. Tottenham; Commission Exhibit 783, Affidavit #2 of R. Kroeker. It should not be left unsaid that because of instances like this, erroneous information ultimately circulated in the media about BCLC and ML issues in BC casinos, which of course impacted both the public and the government’s risk tolerance from 2017 onward. Accordingly, the Commission should not take for granted that actions taken in response to this heightened public attention and lower risk tolerance were properly evidence-based and thus necessarily warranted. In the face of evidence about how much the media narrative informed the government’s response to ML in casinos, the misinformation may have led to a perception that greater action was needed than was in fact the case: Testimony of D. Eby (April 26, 2021), pp. 4-5, 12, 59, 82, 168, 204, 206.

53. Likewise, in 2017, GPEB told BCLC that ten patrons had used anonymous bank drafts in casinos sourced from POC.¹⁹⁵ Mr. Kroeker became concerned because BCLC had very stringent protocols around reviewing bank drafts, and in fact had reviewed over 7,400 drafts to look for anomalies but could not identify any issues.¹⁹⁶ He continually asked for the names of the patrons so BCLC could understand the methodology that was used to obtain these bank drafts and ban the patrons involved.¹⁹⁷ Ultimately, GPEB never provided the names, or any information that would assist BCLC in identifying the customer or financial institution involved.¹⁹⁸ In response, Mr. Kroeker proactively implemented a requirement for receipts to be provided for all bank drafts.¹⁹⁹

54. Around the same time period, JIGIT announced that nine casino patrons had been arrested for ML in BC casinos as well as other violent crimes.²⁰⁰ Given the potential public safety risk these individuals presented, BCLC sought their names so that they could be banned.²⁰¹ Again, GPEB failed to provide the names to BCLC.²⁰²

55. BCLC's proposals were also often met with resistance: GPEB was slow to approve BCLC's proposals or did not approve them at all.²⁰³ According to Mr. Tottenham, it was a "constant battle" over the implementation of cash alternatives, and without GPEB's approval, BCLC could not move forward with the proposals.²⁰⁴ BCLC would submit a proposal, GPEB would respond with a series of questions that BCLC would answer, which would then generate a further round

¹⁹⁵ Testimony of J. Lightbody (Jan. 29, 2021), pp. 72-73; R. Kroeker (Jan. 25, 2021), pp. 133-136.

¹⁹⁶ Testimony of J. Lightbody (Jan. 29, 2021), pp. 72-73; Kroeker Affidavit #1, paras. 155-157.

¹⁹⁷ Kroeker Affidavit #1, para. 158.

¹⁹⁸ Testimony of J. Lightbody (Jan. 29, 2021), pp. 72-73; (Jan. 26, 2021), p. 194; Kroeker Affidavit #1, paras. 162-168.

¹⁹⁹ Testimony of J. Lightbody (Jan. 29, 2021), pp. 72-73; Kroeker Affidavit #1, paras. 163-164.

²⁰⁰ Kroeker Affidavit #1, para. 169.

²⁰¹ Testimony of R. Kroeker (Jan. 26, 2021), pp. 185-189; B. Smith (Feb. 4, 2021), pp. 159-161; Kroeker Affidavit #1, paras. 169-175.

²⁰² Testimony of R. Kroeker (Jan. 26, 2021), pp. 185-189.

²⁰³ Testimony of B. Desmarais (Feb. 2, 2021), pp. 105-106, 111-112, 129.

²⁰⁴ Testimony of D. Tottenham (Nov. 10, 2020), p. 159.

of questions from GPEB.²⁰⁵ In some cases, this cycle would repeat for years.²⁰⁶ For example, Mr. Kroeker recommended improvements to PGF accounts in his 2011 Summary Review, but after he joined BCLC in 2015, GPEB had still not approved electronic funds transfers and credit to fund PGF accounts.²⁰⁷ Although BCLC was able to implement international electronic funds transfers in October 2016 (after GPEB suddenly asserted that its approval was not required), credit has still not been implemented, as it requires an amendment to GPEB's Public Interest Standards.²⁰⁸

56. Finally, BCLC was prevented from implementing other AML improvements, including the proposals to impose a \$25,000 cash payout limit, de-limit convenience cheques, and remove the minimum deposit for PGF accounts.²⁰⁹ These changes were first sought to be implemented in March 2018, but Minister Eby requested that BCLC hold off on implementing AML improvements until after Dr. German's report was complete.²¹⁰ From January to June 2018, BCLC consulted with GPEB about these proposals, GPEB vetted them, and BCLC issued a directive on August 1, 2018 outlining the changes to take effect on August 7, 2018.²¹¹ The day after BCLC communicated the policy changes, Mr. Kroeker received a call from Ms. Fitzgerald, followed by a call from Mr. MacLeod, GM of GPEB, requesting that BCLC hold off on implementation.²¹²

57. During Mr. Kroeker's tenure, BCLC faced criticism from GPEB that it was both not doing enough and doing too much. Although GPEB failed to undertake enforcement efforts that were within its authority, GPEB took issue with BCLC engaging with police and undertaking due

²⁰⁵ Kroeker Affidavit #1, para 92.

²⁰⁶ *Ibid*, para 92, Exhibit 25.

²⁰⁷ *Ibid*, para 93.

²⁰⁸ *Ibid*, paras. 139-143.

²⁰⁹ *Ibid*, paras. 145-154.

²¹⁰ *Ibid*, para. 148; Testimony of D. Tottenham (Nov. 10, 2020), pp. 19, 151-153; J. Lightbody (Jan. 29, 2021), p. 73-74; B. Smith (Feb. 4, 2021), p. 164.

²¹¹ Kroeker Affidavit #1, para. 149.

²¹² *Ibid*, para. 150-151.

diligence.²¹³ Mr. Meilleur took issue with BCLC having criminal open-source analysts, conducting due diligence on MSBs, and BCLC's statutory authority to ban patrons.²¹⁴ GPEB expressed concern when BCLC had discussions with the RCMP instead of going through GPEB.²¹⁵ Mr. Desmarais testified that his perception was that GPEB would have preferred that BCLC deal with the police exclusively through GPEB.²¹⁶

58. GPEB also actively interfered in BCLC's ability to address risks when it viewed BCLC as engaging too closely with police. First, in September 2015, after Mr. Kroeker (then VP Compliance at GCGC) proposed a chip swap to BCLC, GPEB directed BCLC to delay the chip swap due to a request from police.²¹⁷ Mr. Meilleur informed Insp. Serr of the chip swap, explained it "to a limited degree", and asked Insp. Serr whether it should be delayed.²¹⁸ Later, Mr. Meilleur learned that had the police known the details of the chip swap, they would not have requested the delay.²¹⁹ Mr. Meilleur did not approach BCLC or ask for more information from BCLC to inform this discussion. Ultimately, the swap took place in January 2016, but the delay in its implementation gave chip holders a lengthy window of time to return chips to avoid detection.²²⁰ By the time it took place, chip liability was down from \$12M to approximately \$5M.²²¹

59. Second, in 2015, Mr. Meilleur expressed concerns to the RCMP about its ISA with BCLC.²²²

²¹³ Testimony of B. Desmarais (Feb. 2, 2021), p. 133.

²¹⁴ Testimony of L. Meilleur (Mar. 10, 2021), pp. 69-71, 73, 76-77, 80-81; Commission Exhibit 707, Meilleur Talking Points, pp. 7-8; Commission Exhibit 708, Ministry of Attorney General GPEB Update (Oct. 26, 2017), p. 6.

²¹⁵ Testimony of C. Chrustie (Mar. 29, 2021), p. 169.

²¹⁶ Testimony of B. Desmarais (Feb. 2, 2021), p. 133. This is despite the lack of practicality and efficiency (which are necessary to effectively address a fluid AML landscape), and despite the information sharing concerns with GPEB that would only have been amplified to the detriment of BCLC's AML regime.

²¹⁷ Testimony of B. Desmarais (Feb. 1, 2021), pp. 151-152; B. Desmarais (Feb. 2, 2021), p. 59; R. Kroeker (January 25, 2021), pp. 111-112; L. Meilleur (Feb. 12, 2021), pp. 109-110; Kroeker Affidavit #1, paras. 72-74.

²¹⁸ Testimony of L. Meilleur (Feb. 12, 2021), pp. 109-110.

²¹⁹ *Ibid*, p. 110; B. Desmarais (Feb. 2, 2021), p. 59; R. Kroeker (Jan. 26, 2021), pp. 188.

²²⁰ Kroeker Affidavit #1 para. 77.

²²¹ *Ibid*.

²²² Testimony of L. Meilleur (Feb. 12, 2021), pp. 120-123; L. Meilleur (Mar. 10, 2021), pp. 58, 74.

As a result of this conversation, the ISA with BCLC was suspended.²²³ During his testimony, Mr. Meilleur directly connected his actions with respect to the ISA to his perception of BCLC's "scope creep" into enforcement.²²⁴ Although the ISA was reinstated in November 2015, in the interim, BCLC lost its ability to obtain important information to proactively ban and condition patrons and provide information to police.²²⁵

60. Whether the Commissioner finds that some of these actions by third party actors were justified or not, the effect was that BCLC was prevented from acting to address ML/POC risks.

Conclusion

61. Throughout the 13-year span of Mr. Kroeker's work in the AML sphere, he has acted with diligence and integrity. Mr. Kroeker was selected by government, industry, and a Crown corporation to lead compliance efforts due to his subject-matter expertise. In each of his roles, he went above and beyond what was required. Mr. Kroeker's 2011 Summary Review became the template for the Province's AML Strategy. As GCGC's VP Compliance and Legal, he was hypervigilant, proactive, and solution-oriented.²²⁶ As BCLC's VP Corporate Security and Compliance, his commitment to improving BCLC's AML regime never wavered. Mr. Kroeker's efforts were essential to the substantial improvements in the gaming industry between 2012 and 2019, and the Commissioner should so find.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 24th day of September, 2021

²²³ Testimony of B. Desmarais (Feb. 1, 2021), p. 63; R. Kroeker (Jan. 25, 2021), pp. 113-114; Kroeker Affidavit #1, paras. 114-118.

²²⁴ Testimony of L. Meilleur (Mar. 10, 2021), p. 56.

²²⁵ Kroeker Affidavit #1, paras. 117-118.

²²⁶ Testimony of B. Desmarais (Feb. 2, 2021), p. 121.



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