

COMMISSION OF INQUIRY INTO MONEY LAUNDERING IN BRITISH COLUMBIA

The Honourable Mr. Austin F. Cullen, Commissioner

REPLY SUBMISSIONS OF JAMES (JIM) LIGHTBODY

Counsel for Jim Lightbody:

Robin N. McFee, Q.C.
Maya O. Ollek
Sugden, McFee & Roos LLP
Barristers and Solicitors
700 – 375 Water Street
Vancouver, BC V6B 5C6
Tel: (604) 687-7700

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1. For the purposes of these reply submissions, Mr. Lightbody adopts the terms as defined in his Closing Submissions, dated September 24, 2021.

I – Exchange of Correspondence with the GPEB ADM/GM

2. The Closing Submissions of the Province of British Columbia, dated September 28, 2021 (the “Province Closing Submissions”) assert that the government and GPEB requested that BCLC implement a source of funds policy (at paras. 137-156). This is primarily reflected in the exchange of communications between Mr. Mazure and Mr. Lightbody between mid-2015 and 2017, and in particular their exchange about source of funds inquiries. In addition to the matters set out in para. 39 of Mr. Lightbody’s Closing Submissions, dated September 24, 2015 (“Mr. Lightbody’s Closing Submissions”), Mr. Lightbody draws the following further matters to the Commissioner’s attention.

3. The Province’s recitation of this exchange of correspondence omits a material aspect. Specifically, the Province’s Closing Submissions continue to ignore, as it has done throughout the course of the hearing, that the consistent advice and recommendation from Mr. Mazure to Mr. Lightbody was that BCLC should conduct appropriate consideration of the source of wealth and source of funds prior to cash acceptances within a risk-based framework.¹ Mr. Mazure stated:

- a. in his August 7, 2015 letter that BCLC should develop and implement additional customer due diligence (“CDD”) and robust Know your Customer

¹ [Ex. 505](#), Aff. #1 of J. Lightbody, Ex. 48, 50, 54, 55, and 57.

(“KYC”) with a focus on identifying source of wealth and source of funds as “integral components of a client risk assessment”;²

- b. in his September 1, 2015 letter again that BCLC should develop enhanced CDD, which would include KYC requirements with a focus on source of wealth and funds being “integral to the overall risk assessment process”;³
- c. in his January 1, 2016 letter that he expected BCLC to implement AML best practices with appropriate consideration of evaluating the source of wealth and source of funds prior to cash acceptance based on “a sound risk based framework that considers SCTs as one element of the framework”;⁴
- d. in his July 14, 2016 letter that BCLC should “contemplate not accepting funds where the source of those funds cannot be determined or verified, within a risk-based framework”;⁵ and,
- e. in his May 8, 2017 letter that he reiterated the suggestion of his July 14, 2016 letter.⁶

The Minister likewise directed in the 2016/2017 and 2017/2018 mandate letters that BCLC conduct appropriate consideration of evaluating source of funds prior to cash acceptance within a risk-based framework.⁷

4. There was never a suggestion by Mr. Mazure in his letters to Mr. Lightbody that BCLC adopt a particular threshold for source of funds assessments. As set out in his affidavit, Mr. Mazure believed BCLC was best positioned to determine how BCLC and service providers should deal with patrons to affect the acceptance of cash based on confirmed source of funds.⁸ While Mr. Mazure’s July 14, 2016 letter makes reference to a source of funds questionnaire and a threshold amount over which BCLC would require

² [Ex. 505](#), Aff. #1 of J. Lightbody, Ex. 48, p. 215.

³ [Ex. 505](#), Aff. #1 of J. Lightbody, Ex. 50, p. 220.

⁴ [Ex. 505](#), Aff. #1 of J. Lightbody, Ex. 54, p. 250.

⁵ [Ex. 505](#), Aff. #1 of J. Lightbody, Ex. 55, p. 256.

⁶ [Ex. 505](#), Aff. #1 of J. Lightbody, Ex. 57.

⁷ [Ex. 501](#), *Overview Report – BCLC Shareholders Letters of Expectations and Mandate Letters*, Appendixes 11-12.

⁸ [Ex. 541](#), Aff. #1 of J. Mazure, para. 161.

service providers to refuse to accept unsourced funds, the language in this letter makes clear that Mr. Mazure proposes this as one possible suggestion of an approach requiring source of funds within a risk-based framework.

5. BCLC under Mr. Lightbody did conduct appropriate consideration of evaluating source of funds prior to cash acceptance within a risk-based framework through implementation and expansion of the sourced cash conditions program, as detailed in paras. 24 to 29 of Mr. Lightbody's closing submissions.

II – BCLC's Consideration of Revenue Implications

6. The Province's Closing Submissions (at paras. 149-150, 156) suggest that one reason that BCLC did not adopt a source of funds assessment to all incoming cash or a source of funds threshold prior to 2018 was an inappropriate concern about revenue consequences. There is no merit to the allegation that BCLC under Mr. Lightbody prioritized revenue over other AML measures. In addition to his submission at para. 9 of his Closing Submissions, that is, that impacts of revenue generation did not skew development of the AML regime, Mr. Lightbody makes the following further points.

7. Mr. Lightbody made clear in his evidence that concerns about revenue implications did not drive BCLC's decision-making about implementing an across-the-board source of funds policy.⁹ There is nothing improper in BCLC considering and advising the Minister about the financial impacts of a source of funds assessment for all incoming cash or a source of funds threshold. BCLC has a responsibility to advise the Minister of any implications of any decisions by BCLC on financial performance and revenue to the government from gaming.¹⁰ As recognized by the GPEB ADM/GM, the overall intent of GPEB was always to get illicit funds out of the system without impacting legitimate business.¹¹ In advising the Minister of the implications about source of funds assessment for all incoming cash or a source of funds threshold, BCLC was doing just that: informing him of the potential impact on legitimate business.

⁹ [J. Lightbody, Jan. 28, 2021](#), p. 62 l. 4-11.

¹⁰ [J. Lightbody, Jan. 29, 2021](#), p. 36 l. 17 to p. 38 l. 9.

¹¹ [J. Mazure, Feb. 11, 2021](#), p. 118 l. 25 to p. 119 l. 4.

III – Orientation Briefings of Minister Eby

8. The Province's Closing Submissions (at para. 185) is critical of BCLC's initial briefing of Minister Eby because of the limited presentation of AML and concerns about the potential of illicit cash entering BC casinos. This does not fairly recognize the context of BCLC's initial briefing – that is, a high-level orientation briefing – or the circumstances at this time. By July 2017, the AML initiatives by BCLC had already had a dramatic impact in reducing the number and value of large cash transactions and suspicious cash transactions.

9. The Province's Closing Submissions assert that GPEB, through Mr. Mazure and Mr. Meilleur, provided to Minister Eby a briefing about AML that accurately and truthfully represented the issues of money laundering in BC casinos. As a new Minister, Minister Eby relied on GPEB representatives to give him accurate information and a balanced presentation with respect to the past actions in the gaming sector and the current state of play in gaming.¹² In addition to the matters set out in his Closing Submissions at paras. 45-46, Mr. Lightbody makes the following additional points.

10. The Province states (at para. 186) that GPEB explained to Minister Eby “the steps taken to date to address suspicious cash in BC casinos, trends in suspicious currency transactions, and “GPEB’s AML challenges” including... among other things, “BCLC’s reluctance to move forward with the speed necessary to mitigate risks (e.g. source of funds...)”. With respect, it did not.

11. GPEB did not present to Minister Eby an accurate or balanced review of steps taken to date to address suspicious cash in BC casinos. Tellingly, the briefing presentation slide purporting to identify the tactics implemented and steps taken to enhance the AML from 2011 to August 2017 omits any references to due diligence enhancements by BCLC, such as the creation of the BCLC AML unit, BCLC's sourced cash conditions program, and BCLC's “live monitoring” protocol or reasonable measures process.¹³ GPEB provided to Minister Eby an illustrative chart of “AML Mitigation” strategies suggesting that GPEB's

¹² [D. Eby, Apr. 26, 2021](#), p. 142 l. 3-8.

¹³ [Ex. 906](#), *Provincial AML Strategy by John Mazure and Len Meilleur – Aug 2017*, p. GPEB1064.0002

AML efforts continued to increase and build through the years. This same chart implies that BCLC engaged in increasing AML Mitigation efforts until July 2015 and ceased doing so thereafter: by GPEB's presentation, the upward arrow of progress for BCLC just stops.¹⁴

12. GPEB did not explain to Minister Eby the key drivers of the downward trends in suspicious currency transactions. GPEB did not draw Minister Eby's attention or make sure that he understood to the dramatic impact of BCLC's sourced conditions program.¹⁵ This is so, even though a GPEB internal memo dated August 9, 2017 recognized that: "the most material procedural change over the past two years was the BCLC unsourced cash directive. The results of our [GPEB's] analysis showed that the directive resulted in a significant reduction in cash buy-ins with \$20s which correlated with an increase in new money deposits into PGF accounts."¹⁶ The data in GPEB's hands made clear by August 2017 that suspicious currency transactions had fallen off the cliff, due to the implementation of BCLC's sourced cash conditions program and patron interviews, coupled with other BCLC initiatives. Inexplicably, GPEB failed to draw to the new Minister's attention the readily observable impact on STRs and LCTs driven by BCLC's enhancements to its AML regime.

13. GPEB did not fairly communicate to Minister Eby the requests of BCLC with respect to source of funds. Rather GPEB implied that BCLC demonstrated reluctance to move forward with the speed necessary with respect to source of funds while negating to provide the Minister with crucial information: BCLC had been requested to address source of funds within a risk-based framework. GPEB presented, to its own advantage, out of context and incomplete excerpts of each of: (1) the Minister's October 1, 2015 letter; (2) the Minister's 2016/2017 Mandate Letter; (3) the Minister's 2017/2018 Mandate Letter; (4) Mr. Mazure's August 7, 2015 letter to Mr. Lightbody; (5) Mr. Mazure's January 15, 2016 letter to Mr. Lightbody; (6) Mr. Mazure's 14, 2016 letter to Mr. Lightbody; (7) Mr. Mazure's July 14,

¹⁴ [Ex. 907](#), *Provincial AML Strategy (Part II)* by John Mazur and Len Meilleur, p. GPEB1065.0003.

¹⁵ See Mr. Lightbody's Closing Submissions at para. 56.

¹⁶ [Ex. 914](#), *Internal Memo to Len Meilleur from Parminder Basi, re COMM-8939 BCLC Directive Impact on Cash Buy-Ins and New Money PGF Deposits – Aug 9, 2017*, p. 2

2016 letter to Mr. Lightbody, and (8) Mr. Mazure's May 8, 2017 letter to Mr. Lightbody.¹⁷ The selective excerpts of these letters gives the false impression that previously the Minister and Mr. Mazure had directed BCLC to implement "source of funds prior to cash acceptance" as a prescriptive measure. GPEB did not share with the Minister that it had only made vague requests of and suggestions to BCLC without ever providing to BCLC with specific directions about how to conduct a source of funds assessment. GPEB did not inform the Minister that it had not ever articulated in any clear manner to BCLC what its risk tolerance threshold was.

14. In addition, the inaccuracies and misrepresentations in GPEB's briefing to Minister were further manifested in the following ways:

- a. GPEB represented that the MNP Report recommended that both BCLC and BCLC refuse unsourced cash and did not communicate that MNP recommended that GPEB (and not BCLC) implement a policy requirement that service providers refuse unsourced cash and that GPEB had not implemented that recommendation;¹⁸
- b. GPEB left the false impression that BCLC is focused on meeting its FINTRAC reporting requirements only, but not more, and goes further to represent that BCLC was not meeting these reporting requirements;¹⁹
- c. GPEB suggested that BCLC is not a collaborative and responsive partner to addressing risks presented by money laundering;²⁰
- d. GPEB mischaracterizes BCLC as being in denial of about the money laundering problem in BC casinos and resistant to taking steps and sharing information to address money laundering risks;²¹ and,

¹⁷ [Ex. 906](#), *Provincial AML Strategy by John Mazure and Len Meilleur – Aug 2017*, p. GPEB1064.0006

¹⁸ [D. Eby, Apr. 26](#), 2021, p. 144 l. 11 to p. 146 l. 10; [Ex. 906](#), *Provincial AML Strategy by John Mazure and Len Meilleur – Aug 2017*, p. GPEB1064.004

¹⁹ [D. Eby, Apr. 26](#), 2021, p. 149 l. 8-16, p. 151 l. 2-16, p. 158 l. 19 to p. 159 l. 4; [Ex. 906](#), *Provincial AML Strategy by John Mazure and Len Meilleur – Aug 2017*, p. GPEB1064.0001; [Ex. 907](#), *Provincial AML Strategy (Part II) by John Mazure and Len Meilleur*, p. GPEB1065.0002.

²⁰ [Ex. 907](#), *Provincial AML Strategy (Part II) by John Mazure and Len Meilleur*, p. GPEB1065.0002.

²¹ [Ex. 907](#), *Provincial AML Strategy (Part II) by John Mazure and Len Meilleur*, p. GPEB1065.0004.

- e. GPEB suggests that BCLC is not providing information early and often enough, when in fact BCLC was providing to GPEB all of its STR and LCT reports to GPEB in addition to s. 86 reports and GPEB personnel found these reports to be of high quality;²²
- f. GPEB implies that BCLC is inappropriately screening STRs and not reporting STRs to FINTRAC that should be reported.²³

15. The significant inaccuracies and myths in GPEB's presentation to the Minister about BCLC's efforts to address suspicious cash entering BC casinos and the potential of money laundering framed and drove the subsequent narrative by the Province and the sequence of events leading to this Commission: Minister Eby's appointment of Dr. German to conduct a review; Minister Eby's persistent, inaccurate statements to the media about BCLC and BC casinos; the impact on BCLC staff; and, ultimately, the appointment of this Commission. The Province's false narrative – which insists that BCLC turned a blind eye to the risk of money laundering, despite clear evidence to the contrary, and did not follow directives from GPEB, despite yet more evidence to the contrary – persists in the positions it advances before this Commission.

IV – Impact of BCLC's Sourced Cash Conditions Programs and Other AML Measures

16. The Province makes submissions to the effect that the implementation of Dr. German's interim source of funds directive is responsible for the significant reduction in the amount of suspicious cash entering BC casinos (Province's Closing Submissions, paras. 192, 220). While Mr. Lightbody acknowledges the important impact that Dr. German's interim recommendation had on suspicious cash entering BC casinos, he disputes the suggestion by the Province that the implementation of this interim recommendation is responsible for the significant decline in the number of large cash and suspicious cash transactions. This simply is not consistent with the evidence and severely

²² [Ex. 907](#), *Provincial AML Strategy (Part II)* by John Mazure and Len Meilleur, p. GPEB1065.0004; [K. Ackles, Nov. 2](#), 2020, p. 17 l. 18 to p. 18 l. 6, p. 93 l. 23 to p 94 ln. 15; [R. Barber, Nov. 3](#), 2020, p. 18 l. 20 to p. 19 l 7.

²³ [Ex. 907](#), *Provincial AML Strategy (Part II)* by John Mazure and Len Meilleur, p. GPEB1065.0006

undervalues the work and commitment by BCLC under Mr. Lightbody, in particular the ramping and expansion of BCLC's risk-based sourced cash conditions program, which was directly responsible for a dramatic decline in both that occurred well before Dr. German's interim recommendation.

17. Mr. Lightbody draws the Commissioner's attention to his Closing Submissions at para. 29 while making the further following submission on this matter. In 2014, cash buy-ins of \$50,000 or more in BC casinos totalled almost \$318 million;²⁴ this fell to \$272 million in 2015, \$82 million in 2016 and \$70 million in 2017.²⁵ The evidence shows a corresponding precipitous reduction in the number and value of STRs. This is particularly apparent in the value and number of STRs at the River Rock Casino.²⁶

18. GPEB recognized the significant reductions in suspicious cash entering BC gaming facilities and impact of the BCLC sourced cash conditions program on large cash buy ins well before the implementation of Dr. German's interim recommendation for a Source of Funds Declaration. For instance, the significant decline in suspicious cash transactions, in the number of transactions and quantum of cash involved, was communicated to the Minister in 2016.²⁷ As early as February 2016, GPEB's Compliance Division recognized that BCLC's sourced cash conditions program as associated with the significant drop in cash buy ins between July 1, 2015-December 31, 2015.²⁸ By August 2017, GPEB's Compliance Division recognized that this program had a "significant impact" in reducing the amount of cash buy-ins in \$20s and was "the most material change over the past two years".²⁹

²⁴ [Ex. 481](#), Aff. #1 of G. Aujla, Ex. 6, p. 33 (This figure is the total number: it does not take into account whether this cash was sourced.)

²⁵ [Ex. 481](#), Aff. #1 of G. Aujla, Ex. 6, p. 33 (All figures have been rounded).

²⁶ [Ex. 482](#), Aff. #1 of C. Cuglietta, Ex. A, p. 13-14.

²⁷ [M. de Jong, Apr. 23](#), 2021, p. 117 l. 7-12.

²⁸ [Ex. 913](#), *Internal Memo to Len Meilleur from Parminder Basi, re COMM-8611 Follow up – Cash Buy-Ins Conducted at River Rock Casino Cages – Feb 15, 2016*, p. 3.

²⁹ [Ex. 914](#), *Internal Memo to Len Meilleur from Parminder Basi, re COMM-8939 BCLC Directive Impact on Cash Buy-Ins and New Money PGF Deposits – Aug 9, 2017*, p. 1, 2.

19. Patently, the evidence establishes that well before Dr. German's interim recommendation, BCLC's efforts had dramatically reduced the number and value of large transaction reports and suspicious transaction reports.

V – Reply to Mr. Meilleur's Closing Submissions

20. Mr. Meilleur suggests in his Closing Submissions, dated September 28, 2021, that one of the first AML recommendations in summer 2015, and as a result of the GPEB spreadsheet, was the implementation of a \$10,000 threshold at casinos (at para. 45). Mr. Meilleur overstates and mischaracterizes the evidence cited to support this. Ex. 592 is an internal email exchange from Mr. Derek Dickson to Mr. Meilleur outlining "a few suggestions" that could be implemented as AML strategies.³⁰ The threshold concept was one of a series of suggestions. The suggestion that this was amounted to an AML recommendation implies that the discussion within GPEB had advanced to the point of considering such a threshold. Mr. Mazure did not pursue this threshold when seeking a Ministerial Directive relating to AML issued to BCLC, nor was this suggestion proposed to BCLC.³¹

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

October 8, 2021.



Robin N. McFee, Q.C.
Counsel for Jim Lightbody



Maya G. Ollek
Counsel for Jim Lightbody

³⁰ Ex 592, *Email from Derek Dickson to Len Meilleur, re AML Strategies – Aug 31, 2015.*

³¹ Ex 553, *MOF Briefing Document Title Options for issuing anti-money laundering directives to BCLC – Sept 1, 2015; M. de Jong, Apr. 23, 2021, p. 135 l. 14-19.*