Part III
The Gaming Sector

Section 4 of the Commission's Terms of Reference directs me to make findings and recommendations with respect to the extent, growth, evolution, and methods of money laundering in the "gaming and horse racing" sector. The issue of money laundering in the gaming industry has featured prominently in public discourse in this province for many years and has been the subject of past study and review, including in Dr. Peter German's 2018 *Dirty Money* report, which the Commission's Terms of Reference direct me to "review and take into consideration."

Despite Dr. German's recent efforts, the Commission elected to focus significant attention on money laundering in the gaming sector. I felt that the focus on this sector was justified for several reasons. First, as will be discussed throughout this part of my Report, the evidence before me establishes that money laundering *did* occur within this sector at significant levels over the course of at least a decade. Accordingly, in a province where money laundering has historically received little attention, British Columbia's gaming sector presents a rare opportunity to study confirmed money laundering in action, on a large scale, over an extended period of time, in the context of a public enterprise with law enforcement and regulatory oversight. In addition to the significance of this activity itself, the money laundering that I have found took place in the gaming sector presents an opportunity to examine how money laundering infiltrates economic systems and the conditions and failures that allowed it to do so.

Second, the gaming sector offers empirical evidence that assists in demonstrating the scale of money laundering activity, even in a jurisdiction like British Columbia that prides itself on its commitment to the rule of law. As I will explain in Chapter 13, the

evidence before me establishes that the laundering of hundreds of millions of dollars in proceeds of crime was enabled by this province's casinos. That the scale of money laundering in a heavily regulated, security-conscious industry could reach such heights reveals the extent to which money laundering is an opportunistic crime and the need for constant vigilance on the part of industry, government, and law enforcement in guarding against its infiltration in all sectors of the economy.

Third, the example of the gaming sector highlights the global reach of money laundering in the modern world. In Part I, I described how money laundering has become the domain of dedicated, criminal service providers connected to global networks capable of quickly moving illicit funds around the world. The dominant money laundering typology observed in British Columbia's gaming industry is illustrative of this modern money laundering landscape. As I explain in detail in Part III, by the early 2010s, VIP gamblers in this province were serviced by a sophisticated network of "cash facilitators" capable of delivering hundreds of thousands of dollars in illicit cash on short notice at any hour of the day or night. While these gamblers received, gambled, and typically lost these funds in British Columbia, they would often repay them half a world away in China, typically through electronic methods. That those providing this cash were content to be repaid on a different continent, in a country known to restrict the removal of money from its territory, is a telling indicator of the global reach and sophistication of the criminal networks associated with this activity and the scale of the illicit funds to which they had access. It is also indicative of the challenges associated with stifling or isolating this crime.

Fourth, the example of this province's gaming sector underscores the importance of strong political will in responding to money laundering. The gaming industry in this province is subject to heavy regulation and direct government oversight. While these features of the industry were not sufficient to prevent the development of a money laundering crisis in the province's casinos, they did ensure that this activity did not go unnoticed. Concerns about suspicious transactions were brought to the attention of a succession of senior government officials early in the evolution of this crisis. While each took some action in response, the problem nevertheless persisted for at least a decade before decisive action sufficient to bring it to an end was taken. That money laundering proved so intractable even in an industry in which it was quickly recognized and over which government maintained a high degree of control is a telling indicator of the level of engagement and dedication on the part of government required to effectively address this form of criminality, particularly in less visible areas of the province's economy that are not subject to the same level of government control.

Finally, my Terms of Reference direct me to make findings regarding whether the acts or omissions of regulatory authorities or individuals with powers, duties, or functions (in the gaming sector) contributed to money laundering in British Columbia and whether those acts or omissions have amounted to corruption. In order to address this aspect of my Terms of Reference thoroughly and fairly, it was necessary, as will become apparent from a review of the chapters in this Part, for the Commission to canvass a significant body of evidence.

In the past, the gaming industry was afflicted by dysfunctional relationships, an unacceptable level of risk tolerance, and insufficient anti–money laundering safeguards. As I discuss in the chapters that follow, however, the evidence before me demonstrates that the money laundering crisis that afflicted this province's casinos for at least a decade has now been largely been addressed by long overdue, decisive action. The industry's anti–money laundering efforts are vastly improved from what they were only a few years ago, and I am encouraged by their trajectory.

This does not mean that there is no need for ongoing vigilance or that there is not room for further improvement, and the chapters that follow include recommendations for further enhancing existing anti–money laundering safeguards.

The experience of the province's gaming industry serves as both a cautionary tale and a model for government and industry seeking to address money laundering in other sectors of the economy. Through a decade of inaction and half-measures, government, law enforcement, and industry allowed a sector of the economy conducted, managed, and regulated by the Province to be used to launder vast amounts of criminal proceeds, which ultimately contributed to the Province's revenues. By facilitating money laundering, British Columbia's gaming sector incentivized and enabled the significant criminal activity that generated these proceeds and the human suffering this activity must have caused. This state of affairs was unacceptable and cannot be repeated, whether in the gaming industry or any other sector of the economy. It is my hope that through lessons learned from years of failure as well as the eventual success in combatting money laundering in the gaming industry, the Province has a better understanding of the type of intelligence, investigation, and decisive action that is required to identify and respond to money laundering activity and that those lessons will be applied to combat money laundering throughout the province and its economy.

Outline of Part III

The origins, rise, and eventual resolution of money laundering in British Columbia's gaming sector are addressed over the course of the following six chapters. The first four chapters set out a detailed narrative spanning several decades based on the evidence I heard during the Commission's hearings. The final two chapters contain an analysis of the facts set out in this narrative, identifying the nature and extent of money laundering that took place in British Columbia's gaming sector and the factors that contributed to its growth and persistence, including the actions and omissions of individuals and organizations connected to the industry.

The narrative that comprises the first four chapters describes the origins and evolution of casino gaming in British Columbia. It explains how casinos in this province have evolved from temporary operations established to raise money for charities and allowing maximum bets of only $2 into large, permanent establishments

permitting wagers of up to $100,000 on a single hand of baccarat. This section of the Report identifies a rapid acceleration in large and suspicious cash transactions that accompanied the evolution of casino gaming and increases in betting limits, peaking in or around 2014, a year in which the province's gaming industry accepted more than $1 billion in cash transactions of $10,000 or more and nearly $200 million in transactions identified by the British Columbia Lottery Corporation as "suspicious."[1] The rapid rise of these large and suspicious transactions inspired vastly different responses among the individuals and organizations engaged in the gaming sector, prompting many years of debate and disagreement as to their significance and what, if anything should be done in response. While the size and frequency of these transactions began to decline in 2015, they remained at elevated levels until 2018, when decisive action was finally taken to reduce them to a fraction of 2014 levels.

In Chapter 13, I conclude that these transactions were integrally connected to significant money laundering activity and that, over the course of a decade between 2008 and 2018, hundreds of millions of dollars in illicit funds were laundered through casinos in British Columbia's Lower Mainland. The laundering of these funds was accomplished through a money laundering typology known as the "Vancouver model," in which cash representing the proceeds of crime was provided to casino patrons, many of whom held significant wealth outside of Canada but were unable to access that wealth in British Columbia. While these patrons genuinely gambled this money, and often lost it, the provision of these finds facilitated money laundering as, win or lose, patrons were required to repay these funds and typically did so in a different medium of exchange in another jurisdiction. Through these exchanges, the illicit cash provided to casino patrons was converted into a different form and transferred to another location, obscuring its origins and advancing the objectives of those intent on laundering it.

In Chapter 14, I identify the factors that contributed to the development and perpetuation of money laundering in Lower Mainland casinos, including the acts and omissions of individuals and organizations connected to the industry. As described in detail in that chapter, this analysis reveals a systemic failure on the part of the gaming industry, law enforcement, and government to respond to obvious criminal activity that grew to become commonplace in several Lower Mainland casinos. While the role played by actors including the BC Lottery Corporation, the Gaming Policy and Enforcement Branch, law enforcement, gaming service providers, and elected officials with responsibility for the industry were not equal, each failed to take steps that could have significantly reduced – if not eliminated – money laundering in the industry. As such, all must share in the responsibility for the rise and perpetuation of this serious problem over so many years.

1 Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2021, exhibit A; Exhibit 784, Affidavit #2 of Caterina Cuglietta, sworn on March 8, 2021, exhibit A.

Horse Racing

I note that my Terms of Reference identify the sector discussed in this Part of my Report as "gaming *and horse racing*" [emphasis added]. While the Commission devoted significant hearing time to casino gaming, very little was focused on money laundering in the horse-racing industry. The subject of horse racing was addressed in Dr. German's *Dirty Money 2* report. Dr. German concluded that the horse-racing industry in British Columbia was in financial decline and that it was not a "high money laundering risk at present."[2] The information obtained in the course of the investigations undertaken by the Commission outside of the hearing process was consistent with Dr. German's conclusion that there is not, at present, a significant money laundering risk in the horse-racing industry in British Columbia. For this reason, the Commission elected not to devote significant hearing time to horse racing. To the extent that this sector was addressed in the Commission's hearings, I find that the evidence supports that money laundering is not a significant issue in horse racing in this province.[3]

2 Exhibit 833, Peter German QC, *Dirty Money, Part 2: Turning the Tide – An Independent Review of Money Laundering in B.C. Real Estate, Luxury Vehicles Sales & Horse Racing*, March 31, 2019 [*Dirty Money 2*], pp 211–52.

3 Evidence of S. MacLeod, Transcript, April 19, 2021, pp 58–59; Evidence of D. LePard, Transcript, April 7, 2021, pp 57–59.

Chapter 9
Gaming Narrative: Pre-2004 and Integrated Illegal Gaming Enforcement Team

Limited Decriminalization of Gaming and Assumption of Provincial Responsibility

In order to understand the evolution of British Columbia's gaming industry and the eventual rise of money laundering therein, it is necessary to begin with a discussion of legal and regulatory changes made at the federal and provincial levels between the 1960s and 1990s. During this era, federal legislative changes removed near-absolute criminal prohibitions on gambling, enabling the eventual creation of a legal, commercial gaming industry in Canada. In doing so, however, these legislative changes established requirements that necessitated a central role for the provincial government in this industry in British Columbia. The bureaucratic and regulatory apparatus established by the Province in response provides important context for understanding the evolution of the industry and the growth of large and suspicious cash transactions in the decades that followed.

Federal Decriminalization of Gambling

Prior to 1969, gambling in British Columbia – and throughout Canada – was regulated primarily through the federal government's jurisdiction over criminal law.[1] A series of statutes passed by Parliament in the late 19th century, alongside offences established by colonial legislatures prior to Confederation or received from English law, resulted in the criminalization of most forms of gambling in Canada.[2]

1 Exhibit 67, Overview Report: Regulation of Gaming in British Columbia [OR: BC Gaming Regulations], para 2.

2 Ibid, paras 4–14.

The wisdom of this widespread, criminal prohibition against gambling was questioned in a 1956 report of the federal Joint Committee of the Senate and House of Commons on Capital Punishment, Corporal Punishment and Lotteries.[3] The report concluded that violations of the gambling provisions of the *Criminal Code* were widespread, that enforcement of these laws had become impractical, and that there existed broad public support for lotteries organized for "charitable and benevolent purposes."[4] The Joint Committee recommended that Parliament expand legal gambling by allowing provinces and municipalities to establish licensing systems permitting charitable and religious organizations to conduct lotteries.[5]

Thirteen years later, in 1969, amendments to the *Criminal Code* significantly broadened the scope for legal gambling in Canada, while also assigning substantial responsibility for the regulation of gaming to provincial governments.[6] Existing criminal prohibitions on gambling remained in place, but exceptions to those prohibitions were added to the *Criminal Code* to permit:[7]

a. The Government of Canada to conduct and manage lottery schemes;

b. The government of a province, alone or in conjunction with another province, to conduct and manage lottery schemes in accordance with any law enacted by the legislature of that province;

c. A charitable organization to conduct and manage a lottery scheme under the authority of a license issued by a province if the proceeds of the lottery scheme were used for a charitable or religious object or purpose, with some limits on the nature of the scheme and the amounts that could be wagered and won;

d. An agricultural fair or exhibition or an operator of a concession leased by an agricultural fair or exhibition or board to conduct a lottery scheme under the authority of a license issued by a province; and

e. Any person under the authority of a license issued by a province to conduct and manage a lottery scheme at a public place of amusement, with some limits on the nature of the scheme and the amounts that could be wagered and won.[8]

In 1985, further amendments to the *Criminal Code* eliminated the federal government's authority to conduct and managing gaming, leaving responsibility for legal gaming in the hands of the provinces.[9] At the same time, additional amendments expanded the forms

3 Ibid, para 15.
4 Ibid.
5 Ibid.
6 Ibid, paras 3, 16.
7 Ibid, para 16.
8 Ibid, para 16.
9 Ibid, para 21.

of permissible gaming to include slot machines and electronic gambling, but only if conducted and managed by a province (rather than by a licensee).[10]

Development of Provincial Legal and Administrative Regime

In the years that followed the federal government's limited decriminalization of gambling, British Columbia began to develop a legal and administrative apparatus to regulate gaming in the province.[11] In 1970, the Government of British Columbia promulgated an Order-in-Council permitting the Province to conduct public gaming in accordance with the recent amendments to the *Criminal Code* and establishing a Licensing Branch within the Ministry of the Attorney General to issue licenses to conduct lotteries to charitable and religious organizations.[12] The Licensing Branch was also tasked with developing regulations regarding eligibility for licences, applicable fees, financial accountability, and minimum percentages of lottery proceeds required to be paid towards a charitable or religious object.[13]

Four years later, the Government of British Columbia passed the *Lotteries Act*, SBC 1974, c 51, establishing the BC Lottery Branch.[14] The existing Licensing Branch, established in 1970, became part of the new Lottery Branch.[15]

Section 5 of the new *Lotteries Act* authorized the responsible minister to both:[16]

a. Conduct and manage lottery schemes in the Province; and

b. Regulate and licence certain persons to conduct and manage such other lotteries in the province as are permitted under the *Criminal Code* (Canada), pursuant to the authority conferred by the *Criminal Code* (Canada) and this Act and the regulations.

The *Lotteries Act* also established a Lottery Fund "into which shall be paid all proceeds from the conduct and operation of lotteries by the province." The fund was to be used first to pay the costs of administering the Act, with any remaining funds to be used for "cultural or recreational purposes or for preserving the cultural heritage of the province." In 1976, the permissible uses of the Lottery Fund were expanded to allow lottery revenue to also be used for "other purposes." In 1979, the Province established the Lottery Grants Branch to administer the Lottery Fund, which had grown as a result of increased lottery revenues.[17]

10 Ibid, para 25.
11 Ibid, paras 59–77.
12 Ibid, para 60.
13 Ibid.
14 Ibid, para 61.
15 Ibid.
16 Ibid, para 62.
17 Ibid, para 64.

The types of gaming permitted in the province were expanded in 1978, when casino-style games such as blackjack were allowed at events conducted by charitable organizations.[18] Bets were limited to two dollars and a maximum of six gaming tables were permitted at such events.[19]

In the years that followed, the Province's administrative apparatus for conducting and managing, licensing, and regulating gaming continued to evolve.[20] The British Columbia Lottery Corporation (BCLC) was incorporated in 1984 and continued under the *Lottery Corporation Act*, SBC 1985, c 50, the following year.[21] The *Lottery Corporation Act*, which remained in force until 2002, identified the BCLC's objects as:

> a. to develop, undertake, organize, conduct and manage lottery schemes on behalf of the government;
>
> b. if authorized by the Minister, to enter into agreements to develop, undertake, organize, conduct and manage lottery schemes on behalf of or in conjunction with the government of Canada or the government of another province, or an agent of either of them;
>
> c. if authorized by the Minister, to enter into the business of supplying any person with computer software, tickets or any other technology, equipment or supplies related to the conduct of lotteries in or out of the province, or any other business related to the conduct of lotteries;
>
> d. (beginning in 1993) if authorized by the Minister, to enter into agreements with a person regarding any lottery conducted on behalf of the government; and
>
> e. to do such other things as the Minister may require from time to time.

As initially enacted in 1985, the *Lottery Corporation Act* also required BCLC to pay its net profits into the Lottery Fund.[22] Since the abolition of the Lottery Fund in 1992, BCLC's profits have been paid into the Province's consolidated revenue fund.[23]

In 1985, the Lottery Branch was renamed the Public Gaming Control Branch. In 1986, it was renamed again, this time becoming the Public Gaming Branch.[24] In 1987, the provincial government established the British Columbia Gaming Commission to

18 Ibid, para 66.
19 Ibid, para 66.
20 Ibid, paras 67–77.
21 Ibid, para 68.
22 Ibid, para 69.
23 Ibid.
24 Ibid, para 67.

develop gaming policy and set terms and conditions for charity gaming licenses.[25] The Public Gaming Branch was absorbed into the BC Gaming Commission in 1995.[26]

Also in 1995, the provincial government established the Gaming Audit and Investigation Office (GAIO) as a monitoring and enforcement agency for the gaming GAIO's mandate was to:[27]

a. Register individuals and companies involved in the activity of lawful gaming in British Columbia;

b. Investigate any occurrence which may be of a criminal nature or bring into disrepute lawful gaming under either s. 207 of the [*Criminal*] *Code* or provincial enactments; and

c. Audit and review gaming operations and organizations against standards established by provincial legislation and policy.

BCLC's mandate expanded in 1997 to include conduct and management of slot machines in British Columbia, and the following year it assumed responsibility for casino table games, bringing all casino gaming in the province under BCLC's authority.[28]

In 1998, an investigation division was formed within GAIO and the provincial government established the Gaming Policy Secretariat. The role of the Gaming Policy Secretariat was to provide policy advice to the minister responsible for gaming and to coordinate the implementation of government policy related to gaming.[29]

British Columbia's regulatory regime was reorganized again in 2002 through the enactment of the new *Gaming Control Act,* SBC 2002, c 14, and the creation of another new regulatory body – the Gaming Policy and Enforcement Branch (GPEB). This new Act established a model for the conduct, management, and regulation of gaming in the province that, in large part, continues to this day. The model established in 2002 and its implications will be discussed in detail later in this chapter, following further discussion of the development of the gaming industry prior to 2002.

BC's Gaming Industry Prior to 2002

Throughout the portion of the Commission's hearings devoted to the gaming sector, I heard from several witnesses with extensive experience working in the gaming industry in this province and who observed first-hand the evolution of that industry over several decades. These witnesses offered valuable insight into the conditions in casinos in the early days of the industry's development and provide useful context for understanding how the industry evolved.

25 Ibid, para 71.
26 Ibid, para 74.
27 Ibid, para 75.
28 Ibid, para 70.
29 Ibid, para 77.

The Charitable Gaming Model

Of these witnesses, the individual whose tenure began earliest in the development of British Columbia's gaming industry was Walter Soo, who spent 36 years with the Great Canadian Gaming Corporation (Great Canadian).[30] While Mr. Soo eventually rose through the ranks of Great Canadian to become executive vice-president, player and gaming development, he began his career in the industry as a part-time roulette dealer, working at the Pacific National Exhibition (PNE) and charity casinos.[31] Mr. Soo gave evidence before the Commission by way of an affidavit and through oral testimony.[32]

The gaming industry that Mr. Soo entered in 1983 differed significantly from what exists in British Columbia today. In 1983, gaming in this province was limited to fairs and exhibitions (like the PNE) as well as "charity casinos." Bets were limited to $5 and could only be made using cash. Charity casinos were casinos operated by charities for the purpose of fundraising. At that time, a charitable organization could apply for a license to operate a casino for up to three days. If granted a license, the charities would typically contract with a gaming supply company, which were private sector businesses like Great Canadian that would provide a venue, gaming equipment, and staff who would operate the casino alongside volunteers supplied by the charity licensee.[33]

The charitable organizations licensed to operate the casino received 50 percent of the gross revenue generated by the casino, the gaming supply company received 40 percent, and the provincial government received 10 percent.[34] The charity was insulated from financial loss in the event the casino lost money.[35]

Initially, there were no permanent casino venues in British Columbia. The venues provided by the gaming supply companies were temporary, rented spaces – often hotel ballrooms. By the late 1980s, permanent casino venues had begun to open, including the Richmond Casino in 1987. While the charity casino model remained in place for another decade, these new venues allowed gaming supply companies to offer a permanent base from which they could assist charities in holding licensed casino events.[36]

30 Exhibit 559, Affidavit #1 of Walter Soo, made on February 1, 2021 [Soo #1], para 4.

31 Ibid, paras 5–15.

32 In addition to oral testimony received during the Commission's hearings, the Commission also received evidence by way of affidavit, either in place of oral testimony or, as in Mr. Soo's case, alongside it. Affidavits were prepared by witnesses with the assistance of their own counsel (or in some cases, counsel for their current or former employer). The use of affidavits enabled the entry of evidence without the use of significant hearing time, ensuring the efficient use of the hearing time available to the Commission. In all instances where a witness gave evidence by affidavit, participants were provided the witness's affidavit in advance and given an opportunity to request that the witness attend to give oral testimony. Where witnesses did not attend to give oral evidence, it is because no participant requested their attendance.

33 Exhibit 559, Soo #1, paras 16–21; Evidence of W. Soo, Transcript, February 9, 2021, p 5; Exhibit 147, Affidavit #1 of Muriel Labine, affirmed on October 23, 2020 [Labine #1], para 4; Evidence of M. Labine, Transcript, November 3, 2020, pp 167–68; Evidence of R. Coleman, Transcript, April 28, 2021, pp 21–23.

34 Exhibit 559, Soo #1, para 21; Exhibit 147, Labine #1, para 4; Evidence of M. Labine, Transcript, November 3, 2020, pp 167–68.

35 Exhibit 559, Soo #1, para 21; Evidence of R. Coleman, Transcript, April 28, 2021, pp 21–23.

36 Exhibit 559, Soo #1, paras 19, 22.

End of Charitable Model and Engagement of BCLC

Multiple witnesses identified the late 1990s as an important turning point for the industry. By 1998, as indicated above, BCLC had taken on responsibility for all casino gaming in British Columbia. As BCLC assumed responsibility for the conduct and management of casino gaming, the Province moved away from the charitable gaming model. Under the new model, the gaming supply companies that had previously contracted with charities now entered into operating services agreements with BCLC, and would come to be commonly referred to as "gaming service providers." With the elimination of their involvement in the conduct and management of casinos, charities also lost the direct financial support they had received from gaming, as gaming revenue was now split between BCLC and service providers in accordance with the terms of operating services agreements. Profits generated by BCLC were paid into the provincial government's consolidated revenue fund.[37]

As the industry shifted away from the charitable model, it also began to expand. Several Lower Mainland municipalities, incentivized by the promise of 10 percent of net revenue generated by casinos within their jurisdictions, approved casino expansion and the introduction of slot machines. The development of "destination casinos" elsewhere in the province commenced at the same time.[38]

As the industry expanded, the environment within gaming facilities changed as well. When the role of charities in the operation of casinos was eliminated, so too was the requirement that volunteers from those charities be involved in running casinos. This left professional staff members employed by gaming service providers to operate casinos without the involvement of charity volunteers. Casino hours were extended, new games, including baccarat and slot machines, were introduced, and maximum betting limits, which by that time had grown to $25, were increased significantly to $500.[39]

As these changes came into effect, business increased and new players began to frequent Lower Mainland casinos to play at the higher levels permitted by new betting limits.[40] At least two witnesses noted that these changes to British Columbia casinos occurred at the same time as an influx of immigration from Asia, associated with the 1997 handover of Hong Kong to the People's Republic of China. These witnesses suggested that resulting demographic changes may have also driven increased

37 Exhibit 559, Soo #1, paras 23–24; Evidence of R. Duff, Transcript, January 25, 2021, p 6; Evidence of M. Labine, Transcript, November 3, 2020, pp 168–69; Evidence of T. Towns, Transcript, January 29, 2021, p 137; Exhibit 517, Affidavit of Terry Towns, made January 22, 2021 [Towns Affidavit], paras 18–19; Exhibit 147, Labine #1, para 5; Evidence of W. Soo, Transcript, February 9, 2021, pp 4, 6; Exhibit 67, OR: BC Gaming Regulations, para 70.

38 Exhibit 559, Soo #1, paras 25–26; Evidence of W. Soo, Transcript, February 9, 2021, p 4.

39 Evidence of W. Soo, Transcript, February 9, 2021, pp 5–6; Evidence of R. Duff, Transcript, January 25, 2021, pp 6–9; Evidence of M. Labine, Transcript, November 3, 2020, p 169; Exhibit 147, Labine #1, para 5; Exhibit 87, Affidavit #1 of Stone Lee, sworn October 23, 2020 [S. Lee #1], para 6; Evidence of S. Lee, Transcript, October 27, 2020, pp 9–10.

40 Evidence of W. Soo, Transcript, February 9, 2021, pp 6–8; Evidence of R. Duff, Transcript, January 25, 2021, pp 6–9; Evidence of M. Labine, Transcript, November 3, 2020, p 169.

demand for gaming.[41] Mr. Soo described the significance of these demographic changes as follows:[42]

> Certainly I spent time in the casinos whenever I could. And certainly the level of cash had risen in all of our properties but in particular it was very noticeable in Richmond, and Richmond casino particularly because everyone can see from the late '80s where I opened that casino from '87, left a half year later and came back in 1990, the whole city had transformed due to the arrival of the very wealthy Chinese. So I saw a lot of activity that way. I had heard the stories from management people and staff who had complained to management people about it, but I was not the person that dealt with it when it came up.

As casinos continued to accept only cash, the growth in business and elevated betting limits led to an increase in the volume of cash entering casinos.[43] Stone Lee, a former dealer for Great Canadian who went on to become a BCLC investigator, recalled that patrons playing at the level of the new $500 bet limit would typically buy-in for $5000 and that it was common for buy-ins to be made using $20 bills during this era. Mr. Lee recalled that between 1997 and 1999, buy-ins of $10,000 or more were uncommon.[44]

Cash Facilitation in BC Casinos

Along with the new players referred to above, another group of individuals began to appear more frequently in casinos in the Lower Mainland at the time of these changes to the gaming industry in the late 1990s. These individuals, whom I will refer to as "cash facilitators,"[45] consisted of predominantly young Asian men.[46] They gambled occasionally, but their primary activity in the casinos was to supply cash and/or casino chips to patrons who had exhausted their funds and required additional cash or chips in order to continue to gamble.[47] During this time period, among Great Canadian-operated casinos, cash facilitators were concentrated at the Richmond Casino and the Holiday Inn Casino in Vancouver, but were also present at other Lower Mainland

41 Evidence of W. Soo, Transcript, February 9, 2021, pp 8–10; Evidence of R. Duff, Transcript, January 25, 2021, p 8.

42 Evidence of W. Soo, Transcript, February 9, 2021, pp 9–10.

43 Evidence of R. Duff, Transcript, January 25, 2021, pp 8–9; Evidence of W. Soo, Transcript, February 9, 2021, pp 6–8; Evidence of S. Beeksma, Transcript, October 26, 2020, p 28; Evidence of S. Lee, Transcript, October 27, 2020, pp 11–12.

44 Exhibit 87, S. Lee #1, paras 6–7; Evidence of S. Lee, Transcript, October 27, 2020, pp 10–11.

45 In the course of the Commission's hearings, witnesses frequently referred to these individuals as "loan sharks." As that term is often understood to refer to individuals lending money at very high interest rates, and as there is no evidence of interest rates of that sort being charged to casino patrons as part of these loans, I will generally use the term "cash facilitator" throughout this Report, except where quoting directly from the evidence or where it is required by the context.

46 Evidence of M. Labine, Transcript, November 3, 2020, pp 169–70; Exhibit 147, Labine #1, para 8.

47 Exhibit 87, S. Lee #1, paras 9–10; Evidence of S. Lee, Transcript, October 27, 2020, p 12; Evidence of S. Beeksma, Transcript, October 26, 2020, p 28; Evidence of P. Ennis, Transcript, February 3, 2021, pp 68–69; Exhibit 147, Labine #1, paras 6–11; Evidence of M. Labine, Transcript, November 3, 2020, pp 169–70.

casinos, including the Royal Diamond and Grand Casinos in Vancouver and the Burnaby Casino.[48]

Muriel Labine, a former dealer and dealer supervisor at the Richmond Casino, testified that cash facilitation on the floor of the Richmond Casino during this period was open and nearly constant and that cash facilitators were present at the casino every day. Ms. Labine's evidence was that it would not be uncommon to see multiple cash facilitators in the casino at once.[49]

Steven Beeksma, a former Great Canadian security and surveillance staff member who went on to become a BCLC investigator, gave evidence that suspected cash facilitators were easy to identify at the Richmond Casino and that he would typically observe one or two suspected cash facilitators each day during the period he worked at the Richmond Casino in the early 2000s. Mr. Beeksma testified that the cash provided by cash facilitators during this time period typically ranged in amount from $500 to $20,000.[50]

Activity Identified as Suspected Cash Facilitation

The nature of cash facilitation occurring in the province's casinos at this time was sometimes captured in reports prepared by BCLC. The following excerpts from contemporaneous BCLC Security Incident reports from this period offer some insight into the type of activity observed in Lower Mainland casinos that was identified as cash facilitation (or, as referenced in these excerpts, "loan sharking") and the response from service providers and BCLC:

- May 2000: Burnaby Villa Gateway Casino[51]

  > This date a male was observed at [gaming table] MB3 passing stacks of $100 bills across the table to another player. The casino security staff attempted to identify this customer. He refused to produce identification and was asked to leave. He is a suspected loan shark. When asked to leave he said "these people need my money."
  >
  > Subject was barred from casino until he produces identification. Photo was obtained. Efforts will be made to identify who this subject is.

48 Evidence of P. Ennis, Transcript, February 3, 2021, p 69; Exhibit 503, Overview Report: 1998–2001 BCLC Security Incident Reports Related to Loan Sharking, Money Laundering and Suspicious Transactions in British Columbia Casinos [OR: 1998-2001 BCLC Security Reports].

49 Evidence of M. Labine, Transcript, November 3, 2020, p 170–71; Exhibit 147, Labine #1, para 10.

50 Exhibit 78, Affidavit #1 of Steve Beeksma, affirmed on October 22, 2020 [Beeksma #1], paras 16, 19; Evidence of S. Beeksma, Transcript, October 26, 2020, p 28.

51 Exhibit 503, OR: 1998-2001 BCLC Security Reports, Appendix E, BCLC Security Incident Report bearing file number 00 1059 dated May 31, 2000.

- August 2000: Burnaby Villa Gateway Casino[52]

  He was observed passing a stack of $100 bills to another player and was subsequently asked to leave the casino for loansharking activities. He refused to identify himself on that occasion.

- February 2001: Great Canadian Casino – Richmond[53]

  I was standing behind MB1 observing player LCT #14 (big player) playing on a reserved table. He was sitting at the table with [cash facilitator]. After player #14 lost all his chips, [cash facilitator] got up from the table and went over to another customer ... and received a [handful] of $500 chips from her. He then went back to the table (MB1) and handed the chips to player #14. This transaction was done under the table, out of camera coverage but right in front of me.

  [Cash facilitator] is a regular here at the casino but very rarely does he play. He sits at a table next to a high [roller's] side and helps the player by keeping track of the outcome [of] each hand and helps the player pay and collect his or her chips. This kind of stuff happens here on a daily basis (not only by [cash facilitator]).

- March 2001: Burnaby Villa Gateway Casino[54]

  This date, a customer identified as [cash facilitator] was observed in the Burnaby Casino, passing large amounts of cash to other players. He is [a] suspected loan shark. He was spoken [to] about his actions by casino staff and informed that he was being barred from [the] casino for one year.

- June & July 2001: Great Canadian Casino – Holiday Inn[55]

  These subjects do not play, they move about the site on and off of the gaming floor. The male appears to be directing the female. The noted activity of the female; 1) openly passed an envelope containing wads of cash ($100 bills) to a patron, 2) taken chips from a female patron, 3) handed cash to a male patron, 4) received cash from a male patron, 5) engaged in a private conversation while handing out money – making notes, 6) female accessed the ATM at the site.

52 Ibid, Appendix I, BCLC Security Incident Report bearing file number 00 1587 dated August 16, 2000.

53 Ibid, Appendix L, BCLC Security Incident Report bearing file number 01 0628 dated March 2, 2001.

54 Ibid, Appendix M, BCLC Security Incident Report bearing file number 01 0795 dated March 20, 2001.

55 Ibid, Appendix Q, BCLC Security Incident Report bearing file number 01 1705 dated July 12, 2001.

- July 2001: Great Canadian Casino – Holiday Inn[56]

  [T]here were (2) subjects a male and a female identity not known observed by surveillance on the gaming floor of the Holiday Inn.

  [S]urveillance monitored the 2 subjects moving on the floor, not playing. Of note the female subject was observed meeting with a regular "registered large cash transaction patron" LCT #201.

  The female handed a paper envelope (package) which when opened contained a large wad of $100 bills.

- July 2001: Great Canadian Casino – Richmond[57]

  BCLC Casino Security and Surveillance Investigator, Gordon Board, walked onto the Richmond Casino gaming floor and noted [cash facilitator #1] buying-in on MB table #2, later determined it was for $5,000.00. As [cash facilitator #1] was making the buy-in [cash facilitator #2] was standing close by and [a] Chinese male with glasses was walking near [the] table. As soon as the buy-in was completed and [cash facilitator #1] received his chips he took approximately 5 chips and handed them off to the Chinese male with glasses in a motion to avoid detection. The Chinese male took the chips to MB #3 and commenced betting.

- August 2001: Great Canadian Casino – Holiday Inn[58]

  Holiday Inn Casino reported that surveillance observed [a patron] receiving a large amount of cash from two people (one woman – Asian, approx. 50 years old; and one man – Asian, approx. 45 years old).

  Over the past three days, [the patron] has bought in with over $200,000.00 in cash.

  … After [the patron] lost about $60 000 on MB 11, he was observed waiting in the concession area when the [unknown] Asian Female passed an envelope to the [unknown] Asian Male, who then passed the envelope to [the patron].

  Shortly after receiving the envelope, [the patron] returned to MB 11 and bought in for $30,000.00.

- September 2001: Great Canadian Casino – Holiday Inn[59]

  [S]urveillance observed a female patron … enter the casino. [The female patron] had been known to pass and receive large amounts of

56 Ibid.

57 Ibid, Appendix R, BCLC Security Incident Report bearing file number 01 1759 dated July 20, 2001.

58 Ibid, p 292.

59 Ibid, Appendix Q, BCLC Security Incident Report bearing file number 01 1705 dated July 12, 2001.

> money on the gaming floor and has been the subject of two Occurrence reports from this location... This evening... surveillance observed [the female patron] approach FPG 14 and talk to an older lady. The older lady pointed out a male player on MB 18. This male player was approached by [the female patron] and the two proceeded outside of the casino from the Broadway entrance. Outside of the casino, the male player proceeded to give [the female patron] a large amount of money. The exchange completed, [the female patron] returned inside of the casino, met up with another male and left immediately in a black Lexus.

Service Provider Response to Cash Facilitation

The evidence I heard regarding the response of service providers to cash facilitation during this time period was focused on casinos operated by Great Canadian, including the Richmond and Holiday Inn Casinos. It is not necessarily reflective of responses at facilities operated by other service providers.

It appears that Great Canadian did not have a written policy regarding cash facilitators during this time. Some witnesses – who at the time or later filled senior roles within Great Canadian – acknowledged the existence of cash facilitators, but advised me that Great Canadian did not tolerate them. One manager recounted to me his recollection that cash or chip passing was not prohibited in that period. The evidence of gaming workers whose jobs placed them on the casino floor in this period satisfies me that, while Great Canadian may have, in principle, not tolerated cash facilitators, the practice on the casino floor was not uniformly consistent with that position. I am satisfied that, regardless of the position of management, cash facilitation was common at Great Canadian facilities during this time period, at times occurring in the open and largely unchecked, though during the latter part of this period it does appear that Great Canadian more consistently worked to remove cash facilitators when detected.

Patrick Ennis, who was employed in Great Canadian's surveillance and security departments for 29 years, eventually rising to the position of vice-president, corporate security and compliance, worked as security manager at multiple Great Canadian locations between 1994 and 2001.[60] Mr. Ennis gave evidence that cash facilitation was a constant source of concern for Great Canadian early in his career and that Great Canadian never tolerated cash facilitation and worked to remove cash facilitators from Great Canadian-operated casinos.[61]

Mr. Soo, who served as Great Canadian's director of operations from 1992 to 2001, was aware of concerns about cash facilitation raised by Great Canadian staff, but did

60 Exhibit 530, Affidavit #1 of Patrick Ennis, made on January 22, 2021 [Ennis #1], paras 2–10.

61 Exhibit 530, Ennis #1, paras 11–14; Evidence of P. Ennis, Transcript, February 3, 2021, pp 68–70.

not observe the activity first-hand.[62] Mr. Soo gave evidence that while the company did not have a policy regarding cash facilitation at the time, Great Canadian did not tolerate illicit activity at casinos and that cash facilitation that was observed by staff should have been reported to the surveillance department.[63]

Rick Duff, who held management positions at various Great Canadian-operated facilities in the late 1990s and into the 2010s similarly recalled there being no written policy regarding cash facilitation in the late 1990s.[64] He testified that illegal activity was to be reported but that passing cash and chips was not prohibited at the time.[65] Like Mr. Soo, Mr. Duff recalled being aware of reports of such activity, but not having observed it first-hand.[66]

I also heard evidence regarding Great Canadian's response to cash facilitation following the Province's move away from the charitable gaming model from individuals who held lower-level positions within the organization at that time. These witnesses added additional detail and nuance.

Ms. Labine, who worked at the Richmond Casino between 1992 and 2000, gave evidence that Great Canadian floor staff had significant concerns about cash facilitators at the Richmond Casino and regularly raised those concerns to management.[67] According to Ms. Labine, management was not receptive to these concerns, denying that there was a problem with cash facilitation at the casino and, in some instances, seeming to accommodate cash facilitators.[68] Ms. Labine recalled one incident where she believed Mr. Duff spoke with two cash facilitators on the casino floor who subsequently spoke with others, after which all of the cash facilitators left the facility. Shortly after the departure of the cash facilitators, senior BCLC personnel arrived in the casino. When the BCLC representatives left approximately 30 minutes later, the cash facilitators returned.[69] Mr. Duff did not recall the incident described by Ms. Labine but testified that it would be normal to "clean up" the casino prior to the arrival of senior BCLC personnel. He denied the existence of a policy or practice of asking cash facilitators to leave the casino in advance of such visits.[70]

Mr. Lee, who transferred to Great Canadian's security and surveillance department after approximately two years as a dealer,[71] recalled resistance from management when he reported cash facilitators.[72] Mr. Lee acknowledged that he was never directed

62 Evidence of W. Soo, Transcript, February 9, 2021, pp 8–11; Exhibit 559, Soo #1, paras 11–12.

63 Evidence of W. Soo, Transcript, February 9, 2021, pp 10–11.

64 Evidence of R. Duff, Transcript, January 25, 2021, pp 2–4, 12–14.

65 Ibid, pp 12–14.

66 Ibid, pp 12–14.

67 Exhibit 147, Labine #1, paras 2, 13–14, 17; Evidence of M Labine, Transcript, November 3, 2020, pp 173–74.

68 Exhibit 147, Labine #1, paras 13–17; Evidence of M. Labine, Transcript, November 3, 2020, pp 173–76.

69 Exhibit 147, Labine #1, para 15; Evidence of M. Labine, Transcript, November 3, 2020, pp 175–76.

70 Evidence of R. Duff, Transcript, January 25, 2021, pp 17–19.

71 Exhibit 87, S. Lee #1, para 4.

72 Ibid, para 20.

to ignore cash facilitators, but testified that, in response to his reports, management would suggest that the individuals in question could not be proven to be cash facilitators.[73] Mr. Lee also recalled, however, that in or around 1999, Great Canadian sought to prevent cash facilitation by implementing a policy prohibiting individuals who were not playing from loitering near gaming tables.[74]

Mr. Beeksma, who began his career in the gaming industry in 2000 as a security officer at the Richmond Casino, also testified to an evolving approach to cash facilitation in Great Canadian-operated facilities.[75] Mr. Beeksma recalled that, at the beginning of his career, Great Canadian's approach to cash facilitation changed frequently. While security and surveillance personnel were sometimes directed to remove cash facilitators, they were often tolerated, not, he understood, because they were thought to be good for business, but because they were replaced so quickly when removed that his supervisors thought it better to leave those with whom the casinos were familiar in place than to be constantly working to identify new cash facilitators.[76] Within his first two years with the company, however, Mr. Beeksma testified that Great Canadian directed that any cash facilitators should be removed and banned from the facility for a period of one year.[77]

Larry Vander Graaf, who joined the Gaming Audit and Investigation Office as an investigator in 1998 and was promoted to manager three years later, gave evidence that he was aware of cash facilitation in British Columbia casinos during his tenure with GAIO.[78] In his view, service providers were more permissive towards cash facilitation during this time than they would become in later years.[79]

BCLC Response to Cash Facilitation

As BCLC took on responsibility for casino gaming in 1998, it also began to engage with the issue of cash facilitation in casinos. Mr. Ennis recalled that BCLC was supportive of Great Canadian's efforts to remove cash facilitators and barred identified cash facilitators from casinos across the province.[80] Mr. Ennis's recollection is consistent with the evidence of Terry Towns, who joined BCLC as its director of security in 2000, later becoming vice-president of corporate security and compliance.[81] Mr. Towns recalled that, at the beginning of his tenure, BCLC investigators spent a significant proportion of their time addressing cash facilitation.[82] At the time, BCLC's response to cash facilitators varied

73 Ibid.

74 Ibid, para 19.

75 Exhibit 78, Beeksma #1, paras 20; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 28–30.

76 Exhibit 78, Beeksma #1, paras 20, 23, 25; Evidence of S. Beeksma, Transcript, October 26, pp 28–30.

77 Exhibit 78, Beeksma #1, paras 22–23.

78 Exhibit 181, Affidavit #1 of Larry Vander Graaf, made on November 8, 2020 [Vander Graaf #1], para 11.

79 Ibid, para 12.

80 Evidence of P. Ennis, Transcript, February 3, 2021, p 70.

81 Exhibit 517, Towns Affidavit, paras 13, 63.

82 Ibid, para 43.

depending on the circumstances.[83] Investigators would warn or bar individuals that were observed providing cash to others, depending on factors including the nature of the activity observed, whether the individual had received previous warnings or whether they were suspected to be affiliated with organized crime.[84] Mr. Towns testified that these efforts were successful and that cash facilitation within casinos became less obvious over time, but that BCLC's ability to address the problem was ultimately limited, as it had no authority to address ongoing cash facilitation if it was moved off casino property.[85]

Regulatory Response to Cash Facilitation

As indicated above, there were multiple regulatory bodies with responsibility for the gaming industry prior to 2002. Based on the evidence before me, it does not appear that these regulatory bodies had any significant engagement with the issue of cash facilitation at this time. Derek Sturko, former executive director of the Gaming Policy Secretariat, who went on to become the first general manager of the Gaming Policy and Enforcement Branch, gave evidence that neither cash facilitation nor money laundering were "on the radar" of the Gaming Policy Secretariat in 1999.[86] Mr. Vander Graaf gave evidence that GAIO was aware of the presence of cash facilitators, but because of relatively low betting limits, cash facilitation was not an issue that required "extensive interceding."[87] Mr. Vander Graaf's evidence was that GAIO did not have the authority to ban cash facilitators from casinos and, as such, its involvement was limited to reporting illegal activity to police and assisting them, when appropriate, in their investigations.[88] This is consistent with the evidence of Mr. Ennis, who did not observe any significant engagement on cash facilitation from GAIO.[89]

Cash Facilitation, Money Laundering, and Criminality in Casinos

While there is ample evidence that cash facilitation was a concern in British Columbia casinos during this time period, there is scant information available about the identities or affiliations of cash facilitators or the sources of the funds provided to players by these individuals. Accordingly, it is not possible to reliably determine the extent to which funds provided by cash facilitators during this time was the proceeds of crime or whether these activities were connected to money laundering.

Throughout the evidence before me, however, there are indications that there was a criminal element present in British Columbia's casinos during this time and that there

83 Ibid, para 46.

84 Ibid.

85 Ibid, para 54; Evidence of T. Towns, Transcript, January 29, 2021, pp 142–43.

86 Evidence of D. Sturko, Transcript, January 28, 2021, p 101.

87 Evidence of L. Vander Graaf, Transcript, November 12, pp 8–9; Exhibit 181, Vander Graaf #1, paras 11–15.

88 Exhibit 181, Vander Graaf #1, para 13.

89 Evidence of P. Ennis, Transcript, February 3, 2021, pp 70–71.

was some level of connection between cash facilitation and criminality. Two witnesses gave evidence, for example, that an individual identified in media reporting as "China's Most Wanted" person was known to frequent the Holiday Inn Casino circa 1999, playing at high levels and associating with cash facilitators.[90] Mr. Towns said that, while organized crime was not a significant concern at the beginning of his tenure with BCLC, members of criminal organizations were occasionally identified in BC casinos.[91]

There is also evidence connecting cash facilitation to violence. Ms. Labine gave evidence that cash facilitators engaged in intimidation against players who were in their debt.[92] Mr. Duff, who worked in the Richmond Casino at the same time as Ms. Labine, spoke of one cash facilitator's reputation for being dangerous and "hanging around with dangerous people."[93] Mr. Beeksma, who worked in security and surveillance at the Richmond Casino recalled a fight between suspected cash facilitators believed to be connected to a "turf war."[94]

While much of the information connecting cash facilitation during this era to violence and criminality is anecdotal and/or second-hand, it is corroborated to a degree by contemporaneous documentation that underscores the human cost associated with cash facilitation during this period. One 1998 BCLC report, for example, indicates that the Vancouver Police Department laid charges against four individuals following a "loan sharking and extortion investigation" that concluded that victims unable to repay loans were threatened with violence and forced "to transfer vehicles, household belongings and even take out mortgages to pay the loan sharks."[95] One of the victims attempted suicide.[96] A second report from the following year documented an attempted assault at the Royal Diamond Casino against a known cash facilitator, in which the alleged perpetrator attempted to strike the cash facilitator with a brick and then attempted to hit both the cash facilitator and casino security staff with his vehicle.[97]

The Impact of Cash Facilitation on Casino Workers

In addition to descriptions of cash facilitation activity at the Richmond Casino, the evidence of Ms. Labine offers insight into the impact of this activity on casino employees confronted with it in their workplace. In the following paragraph drawn from Ms. Labine's evidence, she describes the fear she felt in response to these events:[98]

90 Exhibit 87, S. Lee #1, para 14; Evidence of P. Ennis, Transcript, February 3, 2021, pp 131–32.

91 Exhibit 517, Towns Affidavit, para 37.

92 Exhibit 147, Labine #1, para 12–13.

93 Evidence of R. Duff, Transcript, January 25, 2021, pp 16–17.

94 Exhibit 78, Beeksma #1, para 24.

95 Exhibit 503, OR: 1998-2001 BCLC Security Reports, Appendix A, BCLC Security Incident Report bearing file number 98 1157 dated November 27, 1998.

96 Ibid.

97 Ibid, Appendix B, BCLC Security Incident Report bearing file number 99 801 dated June 29, 1999.

98 Exhibit 147, Labine #1, para 13.

> By 1998, I was increasingly scared and disturbed by this apparent organized crime activity at our worksite. I was experiencing and observing harassment and intimidation from loan sharks and their associates. In one incident, a senior loan shark called Scarface was deliberately blowing smoke into the face of a casino dealer at a non-smoking table after losing a hand in cards. When I stepped in as a supervisor and asked him to stop, he swore at me and flicked ashes on the carpet. When I called Rick Duff, the floor manager, to deal with the situation, he said, "leave him alone", "he's dangerous", "you don't want to deal with him." Rather than asking Scarface to leave, the floor manager removed the non-smoking sign from the table he was sitting at and provided Scarface an ashtray so he could continue gambling.

In his evidence, Mr. Duff indicated that he did not recall the events described by Ms. Labine, though he acknowledged that he was aware of the individual, understood that he was associated with dangerous people, and that he might have changed a non-smoking table to a smoking table to accommodate a patron.[99]

In her evidence, Ms. Labine described her ultimately unsuccessful efforts to convince Great Canadian management to take action to address what she perceived to be a threat to her safety and well-being in her workplace.[100]

Ms. Labine's discussion of the events that occurred during her tenure at the Richmond Casino is only one of several perspectives on the environment within British Columbia casinos at that time and the response of service providers, BCLC and law enforcement. However, her description of how her work environment and her perception of the response of her employer made her feel is a useful reminder of the impact of living and working in proximity to perceived criminal activity.

Other Forms of Suspected Money Laundering Identified in Casinos

Much of the evidence related to suspicious activity in casinos during this time focused on cash facilitation. There is also evidence, however, of other activity in casinos during this period which appears to be connected to money laundering (albeit at a much smaller scale than seen later). The evidence is not sufficient to allow me to conclude that money laundering had infiltrated British Columbia casinos in any sort of coordinated or systematic manner during this period. It does appear that, in at least some instances, such suspicious activity was documented, and some suspicious transactions were refused.

Some of this activity was described by Ms. Labine in her affidavit. In addition to cash facilitation, Ms. Labine recalled observing the following activities, which she identified as "suspected money laundering activities":[101]

99 Evidence of R. Duff, Transcript, January 25, 2021, pp 14–16.

100 Exhibit 147, Labine #1, paras 13–19.

101 Ibid, para 9.

- patrons buying casino chips but not playing or playing minimally;
- patrons arriving at the casino with large amounts of $20 bills bundled in elastic bands, converting the cash into $500 and $1,000 casino chips, but betting only small amounts;
- patrons betting equal amounts on both a player and the banker, ensuring minimal losses but allowing money to be represented as gambling winnings when paid out to the patron; and
- patrons converting small denominations of currency into larger denominations.

The following excerpts from contemporaneous BCLC Security Incident reports also identify suspected money laundering activity not directly connected to cash facilitation.

- March 2000: Royal Diamond Casino[102]

  This date, female ... attended at the Royal Diamond Casino and attempted to exchange $11,600.00 US dollars into Canadian currency. The casino staff were certainly suspicious. She was able to convince the casino manager that she did intend to gamble with the money if exchanged, so they allowed her to exchange $3,000 US dollars. She then went to the concession area of the casino, had something to eat, and then said she was going to meet a friend at another casino. She left without gambling any of the exchanged money. The $11,600 US dollars that she produced was comprised of a mixture of large and small bills. Of course she asked to exchange the smaller bills first which they did for her.

  There were two unidentified males with her. They tried to look like they were not together but it was obvious that they were. They were not involved in the money exchange and therefore were not identified. Security staff obtained [photos] of all three subjects. When they left security followed them to a vehicle outside and obtained particulars ...

  When these subjects left the Royal Diamond, the security staff contacted other [casinos] in this area to alert them. They were informed that the males had been into the Grand Casino, earlier in the day (1300 hrs) to exchange US dollars. They were successful in exchanging a total of $700.00 US dollars, into Canadian funds. One male got $300 and the other guy got $400.

  From conversations with Casino staff at the Royal Diamond, it was clear that they were aware that they got "scammed" big time.

102 Exhibit 503, OR: 1998-2001 BCLC Security Reports, Appendix D, BCLC Security Incident Report bearing file number 00 0563 dated March 22, 2000.

- August 2000: Burnaby Villa Gateway Casino[103]

  [I]nformation was received from Security staff at Burnaby Villa Casino. They have identified a group of nine (9) Vietnamese males that have been seen in the Burnaby Casino over the past week or so. They have been playing together as a group and moving about the casino as a group. They have exchanged large amounts of cash, mainly in $20 bills, at the gaming tables. They gamble a bit but mostly appear to be laundering this money. They are also suspected in some money lending, loan sharking.

- April 2001: Great Canadian Casino – Newton[104]

  [A patron] attended Surrey [Great Canadian] and requested to exchange $5000 US currency, denominations 50 x $100.

  Patron provided proper ID and an LCT was completed. [The patron] advised the cashier … that he was playing at a table.

  The $5000 US was exchanged for $7300 Cdn. [The patron] left the cashier, didn't go to a table and left the site.

  [The patron] walked and [got] into a silver Honda or Nissan sedan … There was an Asian female observed possibly associated to [the patron].

  After a few minutes, the Asian female attended the [Great Canadian] cashier, seeking to exchange $5000 US funds. [The cashier] asked the female if she was associated to the male who had just exchanged some US currency – she denied knowing the male.

  [The cashier] declined to conduct the exchange and the female departed the casino.

Law Enforcement Engagement

These examples of suspicious activity and the connections between violence and cash facilitation at British Columbia casinos raise the question of law enforcement's engagement with the gaming industry during this period, which seemed to vary somewhat by jurisdiction. As mentioned in the discussion of an investigation into "loan sharking and extortion" above, the Vancouver Police Department had some level of engagement with issues in Vancouver gaming facilities. Mr. Vander Graaf attributed this, in part, to the existence of a "small but knowledgeable [two]-officer police unit" focused on gaming that worked closely with GAIO.[105] Mr. Vander Graaf believed that

103 Ibid, Appendix I, BCLC Security Incident Report bearing file number 00 1587 dated August 16, 2000.

104 Ibid, p 193.

105 Exhibit 181, Vander Graaf #1, para 15.

these officers were well aware of cash facilitation issues at Vancouver casinos, but that law enforcement was unlikely to resolve the issue because cash facilitation "was a minor offence with minimal penalties requiring significant investigative resources and because witnesses were typically very reluctant to cooperate in those investigations for fear of reprisals against themselves and/or their families."[106]

Witnesses who worked in the gaming industry in other municipalities described a different level of engagement by law enforcement. Mr. Beeksma, who worked in security and surveillance in the Richmond Casino, described a very limited law enforcement presence at that facility, consisting of responses to calls for service and occasional walkthroughs.[107] Ms. Labine gave evidence that she observed no overt law enforcement response to cash facilitation during her tenure at the Richmond Casino.[108] Ward Clapham, who served as officer-in-charge of the Richmond RCMP detachment between 2001 and 2008, gave evidence that, while the Richmond RCMP was aware of cash facilitation and minor criminal activity around the Richmond Casino prior to the opening of the River Rock Casino in 2004, the Richmond detachment had not identified significant criminality associated with the casino.[109]

In the late 1990s, it appears that the provincial government identified a need for greater law enforcement engagement in the gaming industry. The Province proposed the creation of a "multi-agency, multi-disciplinary illegal gambling enforcement unit comprised of seconded police and provincial government support personnel" along with a dedicated Crown counsel for gambling enforcement.[110] The mandate of the proposed unit would have been "the enforcement, detection and prevention of illegal gambling and criminal offenses directly relating to destination casino and other legal gaming venues in the Province of British Columbia."[111] While the proposal for this unit was submitted to Treasury Board, a memorandum dated January 22, 1998, indicates that it was withdrawn due to a "recent Supreme Court ruling," which is not identified.[112] As I discuss in the chapters that follow, proposals for similarly focused law enforcement units were made repeatedly in the subsequent two decades, but no such unit was established until 2016, nearly 20 years later.

Enactment of the *Gaming Control Act*

The legal landscape for the gaming industry in British Columbia changed substantially in 2002 with the enactment of the *Gaming Control Act.* Among other changes, the *Gaming Control Act* eliminated a previous patchwork of legislation and proliferation

106 Exhibit 181, Vander Graaf #1, para 14–15; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 8–9.

107 Evidence of S. Beeksma, Transcript, October 26, pp 32–33.

108 Exhibit 147, Labine #1, paras 14, 19; Evidence of M. Labine, Transcript, November 3, 2020, pp 176–77.

109 Evidence of W. Clapham, Transcript, October 27, 2020, p 130.

110 Exhibit 77, Overview Report: Integrated Illegal Gaming Enforcement Team [OR: IIGET], Appendix D, October 1997 Treasury Board Submission: Illegal Gambling Enforcement Unit.

111 Ibid.

112 Ibid.

of regulatory authorities, establishing GPEB as a single regulator for the industry. Despite occasional amendments to the *Gaming Control Act* since 2002,[113] the legal, regulatory, and administrative regime established by the Act has largely remained in place in the two decades that have followed its enactment.

Rationale for the Enactment of the *Gaming Control Act*

The *Gaming Control Act* was introduced and ultimately enacted in the wake of the 2001 provincial election, which brought a new government to power. According to former Minister Rich Coleman, who was appointed solicitor general and minister responsible for gaming following that election, the *Gaming Control Act* represented the new government's attempt to modernize the gaming industry while honouring a campaign commitment not to further expand gaming in British Columbia.[114]

In introducing the bill on second reading in the Legislature, Mr. Coleman described the rationale for the proposed legislation as follows:[115]

> The introduction of the Gaming Control Act is another step in reorganizing gaming in British Columbia to replace what was a dysfunctional operation with a seamless operation without influence by members of this House on licensing and issues to do with gaming so that it's kept at arm's length from government.
>
> Gaming in this province, Mr. Speaker, is conducted under the authority of the Criminal Code of Canada. The Criminal Code allows each province to conduct and manage gaming or to license charitable and religious organizations to conduct and manage some forms of gaming. Until recently gaming in British Columbia has been managed through a number of agencies, commissions, several laws and numerous regulations. Five different agencies had a role in regulating, licensing, inspecting, managing, auditing and operating gaming in this province. They were the gaming policy secretariat, the B.C. Gaming Commission, the gaming audit and investigation office, the B.C. Racing Commission and the B.C. Lottery Corporation.
>
> At present there are four statutes dealing with gaming. They are the Lottery Act, the Lottery Corporation Act, the Horse Racing Act and the Horse Racing Tax Act. In addition, there are numerous policies and directives relative to gaming. One of the things I found out as I moved into the gaming sector as a minister and looked at it was that we had not given the legislative authority for a lot of the work we asked our staff to conduct themselves, particularly in audit and investigation. This act fixes that.

113 Exhibit 70, Overview Report: *Gaming Control Act* Hansard.

114 Evidence of R. Coleman, Transcript, April 28, 2021, pp 21–27.

115 Exhibit 70, Overview Report: *Gaming Control Act* Hansard, pp 3–6.

In addition to the numerous policies and directives related to gaming, despite all this, several aspects of the gaming industry are not covered by legislation. For example, as I said earlier, the registration, audit and investigatory functions of gaming have been occurring but haven't had the legislative authority to do so. It's very important that we fix that, Mr. Speaker, so that we can move on in a professional manner.

When we took office, we reviewed gaming management structure, and our review identified a great deal of duplication. It identified inefficiencies. It highlighted the need for restructuring, and it highlighted the need for a comprehensive legislative framework. As a result, we announced a new management model for gaming in September of 2001. The five agencies that previously were responsible for gaming were consolidated into two: the gaming policy and enforcement branch and the B.C. Lottery Corporation.

The B.C. Lottery Corporation is responsible for the day-to-day operations of gaming, including commercial bingo halls, a change which I've moved over from the Gaming Commission. The gaming policy and enforcement branch is responsible for enforcement functions and, for now, charitable gaming such as 50-50 draws and meat raffles. The government sets a broad policy within which both of these agencies operate. These changes were made to improve the efficiency of the gaming sector and to reduce the overlap and duplication.

...

Bill 6 provides a comprehensive legislative framework. The bill formalizes the mandate and financial administration considerations of the B.C. Lottery Corporation. The bill confirms the authority of the corporation to conduct and manage lotteries, casinos and commercial bingo halls in B.C.

It establishes a role for the corporation in regard to the future of the horse-racing industry. The bill establishes the framework for the location or relocation of gaming facilities and ensures that those decisions will be made by the B.C. Lottery Corporation, a very key point, because in the past many decisions relative to the relocation or assignments of casinos or bingos and their locations were influenced by members of government, members of executive council or Members of the Legislative Assembly by lobbying.

That is now arm's length from government. That is in the hands of the Lottery Corporation, who have a mandate to manage this sector. It will never again happen after the passage of Bill 6 that the influence of a minister should ever have any influence whatsoever relative to a gaming facility in British Columbia relative to its relocation, its operation or its management.

> Bill 6 formalizes the mandate and responsibility of the gaming policy and enforcement branch. The bill supports the branch's responsibility for policy and legislation, standards, regulation, licensing, registration, distribution of gaming proceeds and enforcement of all sectors of gaming.
>
> It provides all the necessary authority for licensing of charitable gaming events and horse racing. It provides the statutory authority for the registration of gaming service providers and gaming workers and those organizations and individuals involved in the industry. It also provides the statutory authority for audits and investigations in response to allegations of wrongdoing and our ability to manage the sector of gaming that we want to go after, after we settle this one down, and that is the illegal gaming in British Columbia.
>
> Bill 6 also provides authorization to provide gaming funds to eligible community organizations. It eliminates duplication and improves accountability. It provides for the fair and transparent administration of gaming.

In his evidence before the Commission, Mr. Coleman described the rationale for the enactment of the *Gaming Control Act* in similar terms. He testified that the legal structure that governed the gaming industry prior to the new legislation was not "totally weak, but it wasn't remarkably strong either."[116] He said that there was a need for "clear statutory decision-making powers" in the industry and emphasized the importance of ensuring that the management and regulation of the industry was arm's length from political influence:[117]

> In gaming control and licensing, it's a statutory authority. So the minister can't tell them what rules to put in place or what they can do. They can work on policy and then bring the legislative changes or regulatory changes to a body like cabinet, but they cannot direct.
>
> It wasn't strong enough, in my opinion, at that time for BC, so we brought a new *Gaming Control Act*. And the *Gaming Control Act* was written on the basis that at no time anywhere at any time would a person in elected office or a staff member of any minister or anybody other than the statutory authority be able to make the decisions on how to proceed in an investigation, a policy going forward or whatever.

Mr. Coleman denied that the new legislation was intended to increase revenue for the provincial government.[118] Similarly, Mr. Sturko, who was involved in developing the new model for regulating gaming, gave evidence that revenue was not a factor in its

116 Evidence of R. Coleman, Transcript, April 28, 2021, p 23.

117 Ibid, pp 25–26.

118 Ibid, pp 30–31.

development.[119] While revenue-generation may not have motivated the new legislation, Mr. Coleman acknowledged that, following the enactment of the *Gaming Control Act*, the Province began to see increased gaming revenue alongside the redevelopment of gaming facilities, beginning with the River Rock Casino, which opened in 2004.[120]

Legal and Regulatory Structure of BC's Gaming Industry

The enactment of the *Gaming Control Act* in 2002 was the final piece of the legal, regulatory and administrative structure that would govern the gaming industry for the next two decades, as many of the events of interest to this Commission unfolded. Accordingly, this is an opportune point to describe how gaming in this province has been conducted, managed, and regulated since the *Gaming Control Act* came into force under both federal and provincial legislation.

Criminal Code of Canada

As described previously, prior to 1969, most forms of gambling were subject to criminal law prohibitions established by the federal government or, prior to Confederation, by the British Parliament or colonial legislatures.[121] While the limited decriminalization of gambling in that year (and further amendments in 1985)[122] enabled the development of a commercial gaming industry in British Columbia and other provinces, federal criminal law has continued to shape the legal and regulatory structure of the gaming industry in this province.

The 1969 and 1985 amendments to the *Criminal Code*, discussed earlier, created exceptions to the prohibitions on gambling but did not repeal those prohibitions entirely.[123] The *Criminal Code*'s current gambling provisions are found in Part VII of the *Code*, titled "Disorderly Houses, Gaming and Betting", and consisting of sections 197–212 of the *Code*. Sections 201–203, 206, and 209 create a series of offences related to gambling, which continue to prohibit activities including, for example, "[k]eeping a gaming or betting house" (s 201) and "[b]etting, pool-selling and bookmaking" (s 202).[124]

While these prohibitions remain in place, section 207 of the *Criminal Code* creates exemptions from these offences, including for lottery schemes conducted and managed or licensed by the government of a province.[125] Section 207(1) permits the conduct and

119 Exhibit 507, Affidavit #1 Derek Sturko, made on January 18, 2021 [Sturko #1], paras 5, 20, 21.
120 Evidence of R. Coleman, Transcript, April 28, 2021, pp 29–30.
121 Exhibit 67, OR: BC Gaming Regulations, paras 2–14.
122 Ibid, paras 15–25.
123 Ibid, paras 16–19.
124 Ibid, para 27.
125 Ibid, para 29.

management of lottery schemes[126] by a provincial government, providing that, the other provisions of Part VII of the *Criminal Code* notwithstanding, it is lawful:[127]

> for the government of a province, either alone or in conjunction with the government of another province, to conduct and manage a lottery scheme in that province, or in that and the other province, in accordance with any law enacted by the legislature of that province.

Section 207(1) also permits provincial governments to license others to conduct and manage lottery schemes but sets limits on the types of organizations and entities who may be granted such licences.[128] They include, for example, charitable and religious organizations and the boards of fairs and exhibitions but do not include for-profit businesses such as the gaming service providers that now operate British Columbia casinos under contract with BCLC.[129]

Accordingly, while the 1969 and 1985 *Criminal Code* amendments enabled the development of a legal gaming industry in British Columbia, the nature of those amendments also imposed constraints that have shaped how the industry developed. It was not open to the Province, for example, to adopt a privatized model of gaming with casinos owned and operated by private operators and regulated by government. Unless the Province was prepared to entrust the operation of gaming to charities, fairs, and exhibitions – as it did prior to the reforms of the late 1990s – its only option[130] was to become directly involved in the conduct and management of gaming, including the land-based casinos that were the focus of much of the Commission's gaming-sector hearings. As one endeavours to understand why British Columbia's gaming industry evolved as it has, it is important to recognize that the legal, regulatory, and administrative models open to the Province were – and remain – constrained by federal legislation.

Gaming Control Act

The enactment of the *Gaming Control Act* reorganized British Columbia's gaming industry and its governing legislation. The Act was intended to replace four pre-existing enactments: the *Horse Racing Act*, RSBC 1996, c 198; the *Horse Racing Tax Act*, RSBC 1996, c 199; the *Lottery Act*, RSBC 1996, c 278; and the *Lottery Corporation Act*, RSBC 1996, c 279.

126 "Lottery scheme" is defined broadly in s 207(4) of the *Criminal Code* to encompass a wide array of gaming activity going well beyond what might commonly be thought of as a "lottery" and including both land-based casino and online gaming, among other forms: Exhibit 67, OR: BC Gaming Regulations, paras 32–34.

127 Exhibit 67, OR: BC Gaming Regulations, para 29.

128 Ibid, para 30.

129 Ibid.

130 In *Great Canadian Casino C Ltd. v Surrey (City of)* (1999), 53 BCLR (3d) 379, 1998 CanLII 2894 aff'd 1999 BCCA 619, the Supreme Court of British Columbia considered the meaning of "conduct and manage." The Court's decision indicates the requirement that provincial governments (or licensees) impose real limits on how gaming may be offered within a province. In particular, the Court held that "[a] key indication of management and control is the fact of which party … is the 'operating mind' of the lottery scheme," confirming that a province that is not the "operating mind" of a lottery scheme cannot be said to have conduct and management of that lottery scheme: Exhibit 67, OR: BC Gaming Regulations, paras 35–38.

The *Gaming Control Act* also reallocated the responsibilities of five distinct organizations – the Gaming Policy Secretariat, Gaming Audit and Investigation Office, BC Gaming Commission, BC Racing Commission, and BC Lottery Corporation – among two, the Gaming Policy and Enforcement Branch and the BC Lottery Corporation.[131]

The *Gaming Control Act* establishes British Columbia's model for the conduct, management, and regulation of land-based casino gaming in part by continuing and assigning roles and responsibilities to GPEB and BCLC. These two agencies, along with registered gaming service providers, play central roles in the province's gaming industry.

Gaming Policy and Enforcement Branch

Established in 2002, GPEB is continued under section 22 of the *Gaming Control Act.*[132] Section 23 of the Act provides that the Branch is "responsible for the overall integrity of gaming and horse racing."

General Manager Role and Responsibilities

GPEB is directed by a general manager, who typically also holds the rank of assistant deputy minister within the British Columbia public service.[133] The powers, duties, and responsibilities of the general manager are governed by the *Gaming Control Act*.[134] Section 27 of the Act identifies some of the responsibilities of the general manager, including but not limited to:[135]

- The general manager is the head of the branch and is responsible, under the direction of the minister and with reference to the responsibility of the branch under section 23, for the enforcement of the *Gaming Control Act* (s 27(1)).
- The general manager must advise the minister on broad policy, standards, and regulatory issues (s 27(2)(a)).
- Under the minister's direction, the general manager must develop, manage, and maintain the government's gaming policy (s 27(2)(b)).
- The general manager may establish criteria necessary for considering, reviewing, and evaluating proposals for new or existing gaming facilities (s 27(2)(c)).
- The general manager may establish public interest standards for gaming operations, including but not limited to extension of credit, advertising, types of activities allowed, and policies to address problem gambling at gaming facilities (s 27(2)(d)).

131 Exhibit 67, OR: BC Gaming Regulations, paras 78–80. These changes did not all happen simultaneously with the enactment of the *Gaming Control Act*. The *Horse Racing Tax Act* was not repealed until 2003, for example.

132 Exhibit 67, OR: BC Gaming Regulations, paras 80–81.

133 Ibid, para 84.

134 Ibid, para 85.

135 Ibid, paras 85–86.

- The general manager may direct that the branch conduct an investigation respecting the integrity of lottery schemes or horse racing, or the conduct, management, operation, or presentation of lottery schemes or horse racing (s 27(3)(a)).
- The general manager may make inquiries or carry out research into any matter that affects or could reasonably be expected to affect the integrity of gaming or horse racing (s 27(3)(c)).

In addition to these responsibilities, section 28(1) of the *Gaming Control Act* empowers the general manager to issue directives to GPEB and BCLC as to the carrying out of responsibilities under the Act including, but not limited to, directives:

- respecting the extent or type of gaming activities that may be carried on at a gaming facility or in relation to provincial gaming;
- establishing limitations respecting ownership, control, or both, of gaming service providers in general or of classes of gaming service providers;
- respecting types of lottery schemes for which gaming event licences may be issued;
- respecting types of horse racing for which horse racing licences may be issued;
- respecting specified activities in conjunction with lottery schemes or horse racing, in circumstances, or on conditions, that may be set out in the directives;
- respecting standards for security and surveillance
    - at gaming facilities or gaming premises or classes of gaming facilities or gaming premises; or
    - in relation to gaming operations or classes of gaming operations;
- respecting the technical integrity of lottery schemes;
- establishing criteria for the review and evaluation of proposals for new gaming facilities or for the relocation of existing gaming facilities;
- prohibiting or restricting the extension of credit to participants in gaming events and governing the extension of credit;
- approving the formula for determining the amount of gaming revenue that
    - must be returned to charitable, religious, or other organizations in connection with a licensed gaming event; or
    - may be retained by or paid to a gaming service provider in connection with the conduct, management, operation, or presentation of lottery schemes;

- establishing policies to address problem gambling; and
- respecting the method by which the prescribed distance for the purposes of the definition of "potentially affected local government" in section 17.1 must be measured, including rules for determining the terminal points of that distance.

Until 2018, however, the general manager's authority to direct BCLC was limited. When the *Gaming Control Act* was enacted, section 28(3) of the Act provided that the general manager required the approval of the minister responsible for gaming in order to issue a directive to BCLC.[136] This requirement was repealed in November 2018 and the general manager of GPEB can now issue directives to BCLC without the consent of the responsible minister.[137] This is an important development that I discuss further in Chapter 12 and Chapter 14.

In order to define and differentiate the roles of GPEB and BCLC, the *Gaming Control Act* also prohibits the general manager from taking certain actions. Section 27(4) of the Act provides that the general manager, in carrying out her or his responsibilities under section 27 of the Act, must not:

- conduct, manage, operate, or present gaming or horse races;
- enter into an agreement with Canada or the government of another province with respect to the conduct, management, operation, or presentation of lottery schemes or horse races; or
- enter into an agreement with a gaming service provider.

Organization of GPEB

Mr. Sturko, who was appointed as the first general manager of GPEB in 2002,[138] gave evidence about how the Branch was organized at the time of its inception. Mr. Sturko testified that following its creation, GPEB conducted a functional analysis that involved examination of all of the functions to be conducted or overseen by the Branch.[139] This analysis led to the creation of an organizational structure with the following streams of business:[140]

- policy and legislative work, including responsible gambling and support services;
- licensing and grants;

136 Ibid, para 87.

137 Ibid; *Attorney General Statutes Amendment Act, 2018*, SBC 2018, c 49, ss 22–24; Exhibit 541, Affidavit #1 of John Mazure, sworn on February 4, 2021, para 224; Evidence of S. MacLeod, Transcript, April 19, 2021, p 20.

138 Exhibit 507, Sturko #1, para 21.

139 Ibid, paras 26–27; Evidence of D. Sturko, Transcript, January 28, 2021, p 102.

140 Exhibit 507, Sturko #1, para 27; Evidence of D. Sturko, Transcript, January 28, 2021, pp 102–3.

- racing;
- registration and certification;
- audit and compliance; and
- investigations.

The Branch adopted a decentralized decision-making model, particularly for the audit, investigation, and registration divisions, in which the leadership of those divisions were responsible for the actions of the divisions that they led.[141]

Following its creation, GPEB was subject to occasional changes to its organizational structure. In 2008, for example, the Branch undertook a risk-mapping exercise that led to the creation of an internal compliance and risk management division.[142] Other changes to the structure of GPEB, which were made in later years, will be discussed in Chapter 10 and Chapter 12.

Registration of Gaming Service Providers and Gaming Workers

The *Gaming Control Act* also establishes a registration scheme for "gaming services providers"[143] and "gaming workers."[144] The general manager is required to maintain a register of gaming service providers and workers[145] and the Act prohibits anyone who is not registered from providing "gaming services,"[146] except for BCLC or anyone excluded from the requirement by regulation.[147]

This registration scheme provides GPEB a measure of oversight and control over the companies and individuals who work in the gaming industry in British Columbia.

141 Ibid, para 28.

142 Exhibit 507, Sturko #1, para 29; Evidence of S. Birge, Transcript, February 3, 2021, pp 4–5.

143 Section 1 of the *Gaming Control Act* defines "gaming services provider" as a person who:
(a) provides gaming services,
(b) provides gaming supplies, or services or tests gaming supplies,
(c) provides or trains gaming workers, or
(d) provides a facility for gaming,
and includes persons in a class of persons prescribed for the purpose of this definition, but does not include a person in a class of persons excluded from this definition by regulation of the Lieutenant Governor in Council.

144 Section 1 of the *Gaming Control Act* defines "gaming worker" as an individual:
(a) who is paid to assist in the conduct, management, operation or presentation of a lottery scheme or of horse racing, or
(b) who is in any class of individuals connected in any capacity with the gaming industry or its regulation and is prescribed for the purpose of this definition,
but does not include an individual in a class of individuals excluded from this definition by regulation.

145 Exhibit 67, OR: BC Gaming Regulations, para 93.

146 The *Gaming Control Act* defines "gaming services" as "services that are required for or comprise any component of the activities of operating or presenting a lottery scheme or horse racing, and includes services in a class of services prescribed for the purpose of this definition, but does not include services in a class of services excluded from this definition by regulation of the Lieutenant Governor in Council."

147 *Gaming Control Act*, s 94.

Among other requirements, before a gaming service provider or gaming worker can be registered (or before a registration can be renewed), the applicant must submit to a background investigation and the general manager must consider it appropriate to issue or renew the registration, taking into account the information on the application, the report of the background investigation and any other information the general manager considers relevant to the application.[148]

The general manager also has the authority to refuse, suspend, or cancel a registration, and may also issue a warning, impose new conditions or vary conditions on a registration, or impose an administrative fine. The general manager may take any of these actions if an applicant or registrant:[149]

- is considered by the general manager, on reasonable grounds, to be detrimental to the integrity or lawful conduct or management of gaming;
- no longer meets a registration requirement or did not meet a registration requirement at the time of registration;
- has breached or is in breach of
    - a condition of the registration; or
    - a contract with the lottery corporation;
- has made material misrepresentation, omission, or misstatement in the application for the registration or renewal or in reply to an inquiry by a person conducting an audit, inspection, or investigation under the *Gaming Control Act*;
- has been refused a similar registration, licence, or authority in British Columbia or another jurisdiction;
- has held a similar registration, licence, or authority in British Columbia or another jurisdiction and the similar registration, licence, or authority has been suspended or cancelled; or
- has been convicted of an offence, inside or outside British Columbia, that, in the opinion of the general manager, calls into question the honesty or integrity of the applicant.

BC Lottery Corporation

BCLC is a Crown corporation controlled by the Province of British Columbia.[150] The mandate of BCLC is set out in section 7 of the *Gaming Control Act*:

148 Exhibit 67, OR: BC Gaming Regulations, paras 95, 97.

149 Ibid, paras 99–100.

150 Ibid, para 103.

(1) The lottery corporation is responsible for the conduct and management of gaming on behalf of the government and, without limiting the generality of the foregoing,

(a) may develop, undertake, organize, conduct, manage and operate provincial gaming on behalf of the government, either alone or in conjunction with the government of another province,

(b) [Repealed 2010-21-90.]

(c) subject to first receiving the written approval of the minister, may enter into agreements, on behalf of the government of British Columbia, with the government of Canada or the governments of other provinces regarding the conduct and management of provincial gaming in British Columbia and in those other provinces,

(d) subject to first receiving the written approval of the minister, may enter into the business of supplying any person with operational services, computer software, tickets or any other technology, equipment or supplies related to the conduct of

(i) gaming in or out of British Columbia, or

(ii) any other business related to gaming,

(e) may enter into agreements with persons, other than registered gaming services providers, respecting provincial gaming or any other business related to provincial gaming,

(f) subject to subsection (1.1), may enter into agreements with registered gaming services providers for services required in the conduct, management or operation of provincial gaming,

(g) may set rules of play for lottery schemes or any class of lottery schemes that the lottery corporation is authorized to conduct, manage or operate,

(h) may monitor the operation of provincial gaming and the premises and facilities in which provincial gaming is carried on,

(i) must monitor compliance by gaming services providers with this Act, the regulations and the rules of the lottery corporation, and

(j) must do other things the minister may require and may do other things the minister may authorize.

Gaming conducted by BCLC includes casino, lottery, bingo, and sports betting through multiple channels of distribution.[151]

151 Ibid, para 105.

Registered Gaming Service Providers

BCLC conducts and manages commercial land-based casino gaming, in part by entering into operational services agreements with private sector gaming service providers. As these gaming service providers must be registered with GPEB in order to provide gaming services, they are accountable to and subject to the oversight of both GPEB, through the conditions of registration, and BCLC, through their obligations under operational services agreements.

The contractual relationship between BCLC and gaming service providers is intended to permit service providers to provide operational services to BCLC, while ensuring that it maintains its mandated role of conducting and managing commercial gaming in the province.[152] The terms of operational services agreements typically include:[153]

a. Service providers are paid a fee for service under the operational services agreements, equal to certain percentages of the "net win" (as defined in the operational services agreements) from different games. Service providers are also entitled to reimbursement for certain capital investments made to gaming facilities.

b. Service providers are responsible for the general operation of gaming facilities, including surveillance and security, and are restricted from subcontracting certain activities without the consent of the Lottery Corporation.

c. Casino employees are employed by the service providers and the real property used for the physical gaming facilities are typically owned or leased by the service providers, however gaming supplies (as defined in the *Gaming Control Act* and including slot machines) are provided and maintained by BCLC.

d. Service providers are subject to notice and reporting requirements under the operational services agreements and are restricted from completing any significant corporate or partnership changes without BCLC approval. Specifically, shareholder changes for corporate service providers of greater than 5% are restricted and notice is required of any change in directors or officers of a service provider.

e. Service providers are required to fulfill reporting and data collection functions.

f. Service providers are restricted from entering into real property leases relating to gaming facilities, financing arrangements, or contracts relating to equipment at gaming facilities without providing notice to BCLC.

152 Ibid, para 122.

153 Ibid.

BCLC issues standards and directions under the *Gaming Control Act* and operational services agreements with which service providers are obligated to comply.[154] BCLC cannot impose penalties on service providers but may seek contractual remedies in the event a service provider fails to satisfy its obligations under an operational services agreement.[155]

There are three gaming service providers that provide operational services at the six largest casinos in British Columbia's Lower Mainland (River Rock Casino Resort, Hard Rock Casino Vancouver, Grand Villa Casino, Starlight Casino, Cascades Casino Langley, and Parq Vancouver).[156] Great Canadian provides operational services at the River Rock Casino Resort and the Hard Rock Casino Vancouver, among other sites. Gateway Casinos and Entertainment Limited provides operational services at the Grand Villa, Starlight, and Cascades Casinos, among other sites. Parq Vancouver ULC, as general partner and on behalf of Parq Vancouver Limited Partnership, provides operational services at the Parq Vancouver casino.[157]

Proceeds of Crime (Money Laundering) and Terrorist Financing Act

Alongside the *Criminal Code*'s function in setting the conditions for legal gaming in the provinces, federal legislation also plays a role in regulating British Columbia's gaming industry through the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17 (*PCMLTFA*). BCLC, as the entity responsible for the conduct and management of casinos in British Columbia, is responsible for meeting the obligations imposed on casinos by the *PCMLTFA*.[158] These obligations include:[159]

- verifying client identity and conducting ongoing monitoring of business relationships and high-risk clients;
- complying with record-keeping requirements;
- complying with all transaction reporting requirements, including suspicious transaction reports, applicable electronic funds transfers, large cash transaction reports, and casino disbursement reports; and
- maintaining a comprehensive compliance program, which includes the following components:
    - appointment of a person responsible for implementation of the program;

154 Ibid, para 124.
155 Ibid.
156 Ibid, para 125.
157 Ibid, paras 126–136.
158 Ibid, paras 110–111.
159 Ibid, para 12.

- development and application of written compliance policies and procedures that are kept up to date and approved by a senior officer;
- assessing and documenting the risk of money laundering and terrorist activity financing offences;
- developing and maintaining a written, ongoing compliance training program for employees, agents, and/or mandataries or other persons; and
- instituting and documenting a review of the policies and procedures, the risk assessment, and the training program for the purpose of testing their effectiveness every two years.

While BCLC is ultimately responsible for compliance with reporting requirements for the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), service providers play an important role in identifying reportable transactions and gathering information necessary to complete reports.[160] Because service provider personnel handle transactions with casino patrons and are responsible for monitoring the activities of patrons at gaming facilities, they are responsible for reporting information generated through this monitoring to BCLC or to FINTRAC on behalf of BCLC.[161] The obligations of service providers in this regard include:

- identifying unusual financial transactions through consideration of risk factors and circumstances including the amount of funds involved, patterns of patron play, locations of patron play, time of day of transactions, use of cash, and identity and affiliations of patrons;
- reporting unusual financial transactions to BCLC;
- reporting large cash transaction reports and casino disbursement reports to FINTRAC on behalf of BCLC; and
- collecting patron personal identification information and personal details.

BCLC reviews unusual financial transaction reports submitted by service providers and, upon establishing reasonable grounds to suspect that one or more transactions are related to the commission of a money laundering or terrorist financial offence, prepares and submits suspicious transaction reports to FINTRAC.[162]

160 Ibid, para 113.
161 Ibid, para 113.
162 Ibid, para 115.

Integrated Illegal Gaming Enforcement Team

In the next chapter, I discuss the continued evolution of British Columbia's gaming industry following the enactment of the *Gaming Control Act*, including the initial rise of large and suspicious cash transactions beginning in or around 2008. Before doing so, however, I will digress briefly to discuss the formation, operation, and dissolution of a law enforcement unit known as the Integrated Illegal Gaming Enforcement Team (IIGET), which was established in 2003 and disbanded in 2009. This unit is relevant to the Commission's mandate, but for reasons apparent in the discussion that follows, was largely separated from events occurring in the province's casinos during its existence. As a result of the connection of this unit to gaming in the province, and its disbandment at a critical juncture, it is necessary to discuss the uncertainty regarding its mandate and the evidence that I heard regarding the unit's creation, operation, and dissolution.

Creation and Structure of IIGET

Rationale for Creation of the Unit

The Commission heard evidence from multiple witnesses involved in the creation of IIGET. While these witnesses held a variety of positions at the time the unit was created and played a range of roles in its inception, those who had an understanding of why the unit was established were unanimous in linking its creation to concerns about illegal gaming outside of the legal gaming industry, particularly those related to the proliferation of illegal video lottery terminals.[163]

Mr. Coleman, who was solicitor general and the minister responsible for gaming at the time that IIGET was established, recalled how he first learned of the idea for the unit and described his understanding of the rationale for its creation:[164]

> Well, the IIGET idea came to me through staff within the ministry who had had some success, as I'd said earlier, with the Integrated Homicide Investigation Team. I'm a fan of integration. The idea was as we were doing the casinos and were modernizing and were strengthening over here and we had the statutory authority in another place, there was one piece people were concerned about in and around gaming and that was the illegal activity outside of casinos and outside of the regulated pieces of gaming.
>
> And that really was, for lack of a better description, pointed towards grey machines, which we had around BC in bars and restaurants where we had – we would call them – we called them grey machines but basically

163 Evidence of R. Coleman, Transcript, April 28, 2021, pp 39–41; Exhibit 507, Sturko #1, para 44; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 24–25; Evidence of T. Robertson, Transcript, November 6, 2020, p 33.

164 Evidence of R. Coleman, Transcript, April 28, 2021, pp 39–40.

> slot machines that were illegal. We also had concerns about illegal gaming activity. Illegal gaming activity, things like bookmaking, and also illegal games like poker games and what have you that were being run by – or allegedly run by different gangs in BC.
>
> So the pitch was let's have an Integrated Gaming Enforcement Team, go look at the lower side of the gaming activity that's illegal outside a casino, let's put them in place as a unit and build some expertise there and have them do that job. It was a five-year agreement. Because of the fiscal challenges of government, the Lottery Corporation was asked if they would consider paying for it out of their revenues. It was okay with Treasury Board. That was done.

Memorandum of Understanding

IIGET was eventually established pursuant to a memorandum of understanding (MOU) entered into by the Ministry of Public Safety and Solicitor General and the RCMP in March 2004.[165] The term of the agreement was five years – from April 1, 2003, to March 31, 2008.[166]

Pursuant to the MOU, the RCMP were to provide a maximum of six RCMP members and one support staff to form the unit, for the fiscal year beginning April 1, 2003.[167] This complement was to increase to 12 members and one support staff in the following fiscal year.[168] The MOU provided that the new unit was to be co-located with the GPEB investigation division and that the Branch would provide office space and "basic administrative support" to the unit at no cost to the RCMP.[169] The financial commitment to the unit made by BCLC was also set out in the MOU, which began with an amount not to exceed $1.5 million in the first fiscal year, rising to $1.66 million in the fifth and final year of the agreement.[170] The MOU also set out financial support to be provided by the provincial government's Police Services Division.[171]

Consultative Board

The MOU provided for the creation of a consultative board with a membership consisting of[172]

- the director of the Police Services Division (chair and full voting member)
- the general manager of GPEB (full voting member)

165 Exhibit 77, OR: IIGET, Appendix A, 2003 Integrated Illegal Gaming Enforcement Team Memorandum of Understanding.

166 Ibid, para 10.1.

167 Ibid, para 3.2.

168 Ibid.

169 Ibid, para 3.3.

170 Ibid, para 3.6.

171 Ibid, paras 3.7–3.8.

172 Ibid, paras 4.1–4.5, Schedule A.

- the commanding officer of "E" Division, RCMP (full-voting member)
- an executive of the British Columbia Association of Chiefs of Police (full voting member)
- the president and CEO of BCLC (limited voting member)[173]

The role of the consultative board was identified in paragraph 4.3 of the MOU:

> 4.3 The Consultative Board will:
>
> (a) subject to limitations and caveats as outlined in sections 2.2 and 5.1 of this MOU, determine global objectives, priorities and goals for the IIGET that are not inconsistent with those of the Province or the RCMP;
>
> (b) determine the form and frequency of reports and reviews concerning the operations of the IIGET;
>
> (c) after two years of operation arrange an effectiveness review of IIGET;
>
> (d) determine recommendations to be made to the Solicitor General regarding the continued operation, funding and success of the IIGET; and
>
> (e) determine such other matters as are for attention of the Consultative Board specified elsewhere in the MOU.

The role of the consultative board, as set out in the MOU, was generally consistent with how the relationship between the consultative board and the unit was described in the evidence before me. Mr. Begg, who, as the Province's director of police services, served as chair of the consultative board, gave evidence that the board did not manage the unit, but served "as an advisory and to give feedback to IIGET."[174]

Similarly, Tom Robertson, who served as officer-in-charge of the unit when it first became operational, described reporting to the consultative board quarterly:[175]

> [O]n the financial spending of the unit, on the investigations in general of the unit. Not getting into specifics of the active investigations, but giving some details on statistical information on what had occurred on the unit in the past quarter as well as initiatives that we were doing as far as education and that sort of thing.

173 Ibid, para 4.4: The president and CEO of BCLC was entitled to vote only with respect to "(a) the Consultative Board's approval of the budgets as contemplated by section 3.9 [of the MOU]; (b) matters relating to the effectiveness review contemplated by section 4.3(c); and (c) the determination of recommendations to be made to the Solicitor General contemplated by section 4.3(d)."

174 Evidence of K. Begg, Transcript, April 21, 2021, p 31.

175 Evidence of T. Robertson, Transcript, November 6, 2020, p 34.

Mandate of IIGET

The mandate of IIGET is the subject of some conflict in the evidence. While there seems to be a consensus that the rationale for the creation of the unit was to combat illegal gaming outside of legal gaming venues – such as common gaming houses and illegal video lottery terminals – there was contradictory evidence as to whether the unit's mandate was limited to such activity, or whether it also encompassed illegal activity in legal gaming venues.

Mr. Vander Graaf and Joe Schalk were the executive director and senior director of the GPEB investigation division, respectively, during the period of IIGET's existence. They, along with Mr. Coleman and Mr. Sturko, gave evidence that illegal activity in legal gaming venues – including money laundering and cash facilitation – was outside of the mandate of IIGET.[176] When asked if matters related to legal casinos fell within the unit's mandate, Mr. Coleman responded:[177]

> It was outside their mandate, but if they came across something that – intelligence … my hope would be that they would be sharing it with the [Combined Forces Special Enforcement Unit], which was the integrated unit within organized crime, any gang task force we had, any information.

Both Mr. Vander Graaf and Mr. Schalk held firm to the view that illegal activity in legal casinos was outside of IIGET's mandate.[178] However, both also stressed that, from their perspective as former RCMP officers, there were ultimately no limits on where the members of the unit could focus their investigative efforts.[179] Mr. Vander Graaf offered the following explanation of his understanding of the unit's mandate:[180]

> I can see what the issue would be. Should they – could they go into legal gaming or couldn't they go into legal gaming, or were they being paid only to stay in illegal gaming by the lottery corporation and not welcome in legalized gaming.
>
> My interpretation of that was – and I was there from the beginning – that they were to address illegal gaming enforcement. That was their mandate. Could they do unlawful activity in legal gaming? Absolutely. If there was roles – there was roles and responsibilities outlined on some document that I've seen as to whether BCLC's role and responsibility and the RCMP's responsibility. Really you didn't have to put the RCMP's

176 Evidence of R. Coleman, Transcript, April 28, 2021, pp 40–41; Exhibit 507, Sturko #1, para 47; Evidence of D. Sturko, Transcript, January 28, 2021, pp 112–13; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 28, 37–39 and Transcript, November 13, pp 36–37; Evidence of J. Schalk, January 22, 2021, pp 124–26.

177 Evidence of R. Coleman, Transcript, April 28, 2021, p 41.

178 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 28, 37–39 and Transcript, November 13, pp 36–37; Evidence of J. Schalk, January 22, 2021, pp 124–26.

179 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 28, 37–39 and Transcript, November 13, pp 36-37; Evidence of J. Schalk, January 22, 2021, pp 123–25.

180 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 38–39.

> responsibility there. They could investigate anywhere, any time, any place they wished that you really couldn't say that a police officer can't respond to something if he's called. Although there is a mandate for the illegal gaming endeavour.

Contrary evidence was provided by Mr. Begg, the director of police services throughout the time of IIGET's operation, as well as Tom Robertson and Wayne Holland, both of whom served as officers-in-charge of the unit. Mr. Robertson served in this capacity when the unit became operational in 2004. Mr. Holland did so prior to the unit's disbanding in 2009.

Mr. Begg's evidence was that while the unit was intended to focus on illegal gaming activity outside of legal venues, it was deliberately given a broad mandate that included illegal activity in legal venues to ensure that the unit's members had the latitude required to pursue investigations where they led.[181] Mr. Robertson and Mr. Holland likewise understood that illegal activity in legal gaming venues – including money laundering and cash facilitation – was within the formal mandate of the unit, but neither believed that the unit had the capacity to take on such investigations given the level of resourcing available at the time that each of those individuals led the unit.[182] Mr. Robertson testified that he believed "that there was some agreement that [money laundering investigations in legal casinos] did fall within IIGET's mandate and that IIGET would be responsible for these types of investigations,"[183] though he did not believe that IIGET had the capacity to take on such investigations without outside assistance.[184]

Fred Pinnock, who served as officer-in-charge of IIGET from 2005 to 2007 – between the tenures of Mr. Robertson and Mr. Holland – initially testified that his understanding was that illegal activity in legal gaming venues was not within the mandate of the unit.[185] When presented with a collection of documents related to this issue, however, Mr. Pinnock conceded that he was likely mistaken about the mandate of the unit he led for over two years and that it did include illegal activity in legal gaming venues, including money laundering.[186] Like Mr. Robertson and Mr. Holland, however, Mr. Pinnock maintained, even after conceding his misunderstanding, that it would not have been appropriate for the unit to conduct investigations in legal gaming

181 Evidence of K. Begg, Transcript, April 21, 2021, pp 26–27.

182 Evidence of T. Robertson, Transcript, November 6, 2020, pp 33, 49, 109–10; Evidence of W. Holland, Transcript, December 2, 2020, pp 104–5.

183 Evidence of T. Robertson, Transcript, November 6, 2020, p 62.

184 Ibid, pp 49, 59.

185 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 58–60.

186 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 60–79; Exhibit 150, Memo from S/Sgt T. Robertson Re Introduction and Mandate of the RCMP's Integrated Illegal Gaming Enforcement Team (November 10, 2004); Exhibit 151, Integrated Illegal Gaming Enforcement Team – Implementation Plan of Operations (June 24, 2004); Exhibit 152, RCMP – Five Year Strategic Projection Provincial Policing – 2004–2009; Exhibit 153, S/Sgt F. Pinnock – IIGET Consultative Board Meeting Minutes (November 26, 2007); Exhibit 154, Integrated Illegal Gaming Enforcement Team RCMP and GPEB Consultative Board Meeting (November 29, 2004); Exhibit 155, RCMP Background (2003–05).

venues.[187] Unlike his predecessor and his successor, however, Mr. Pinnock identified the reasons why it would not have been appropriate for IIGET to conduct such investigations as being direction he had received from his superiors to "get along" with GPEB and that the Branch did not want IIGET to conduct investigations in legal casinos.[188] This issue and the relationship between IIGET and GPEB generally will be addressed in detail later in this chapter.

In order to resolve the conflict over the mandate of IIGET, it is necessary to distinguish between the unit's formal mandate and what I will refer to as its "effective mandate."

Formal Mandate of IIGET

Based on all of the evidence before me, I am satisfied that the formal mandate of IIGET included the investigation of illegal activity, including money laundering, in legal gaming venues. The witnesses most likely to have an intimate knowledge of the unit's mandate, and therefore best positioned to speak to it, are those who were responsible for leading the unit – Mr. Robertson, Mr. Pinnock, and Mr. Holland – as well as Mr. Begg, who was directly involved in the efforts to establish the unit. Of these four witnesses, three clearly and unequivocally identified the unit's mandate as including illegal activity in legal venues. The fourth, Mr. Pinnock, ultimately conceded that this was the case when taken to documentation that contradicted his previous understanding.

The documents that persuaded Mr. Pinnock that the unit's mandate was broader than he previously understood are quite clear in setting out that the unit's formal mandate did include investigation of illegal activity in legal casinos, including money laundering.[189] One such document is an RCMP "Implementation Plan" dated June 24, 2004, and prepared by Sergeant Bruce Hulan, a former officer-in-charge of the unit. Asked to explain the purpose of this document, Mr. Robertson advised that "[i]t lays out the reasons for the creation of the unit."[190] Under the heading "Responsibilities" the implementation plan includes the following passage:[191]

> Investigators with the IIGET unit are responsible, as with all members of the RCMP, with enforcement of all aspects of the Criminal Code. The specific mandate of the unit is the enforcement of Part VII of the Criminal

187 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 78–79, 137–38.

188 Ibid, pp 74-81, 86–88, 105, 138.

189 Ibid, pp 60–79; Exhibit 150, Memo from S/Sgt T. Robertson Re Introduction and Mandate of the RCMP's Integrated Illegal Gaming Enforcement Team (November 10, 2004); Exhibit 151, Integrated Illegal Gaming Enforcement Team – Implementation Plan of Operations (June 24, 2004); Exhibit 152, RCMP – Five Year Strategic Projection Provincial Policing – 2004–2009; Exhibit 153, S/Sgt F. Pinnock – IIGET Consultative Board Meeting Minutes (November 26, 2007); Exhibit 154, Integrated Illegal Gaming Enforcement Team RCMP and GPEB Consultative Board Meeting (November 29, 2004); Exhibit 155, RCMP Background (2003–05).

190 Evidence of T. Robertson, Transcript, November 6, 2020, pp 38–39.

191 Exhibit 151, Integrated Illegal Gaming Enforcement Team – Implementation Plan of Operations (June 2004), p 10.

> Code as it relates to Illegal Gaming. *IIGET members will investigate unlawful activity in legal venues, such as loan sharking, threatening, intimidation and money laundering*. Investigating illegal gambling in common gaming houses where among other things poker games or video gambling machines are being played. [Emphasis added].

Commission exhibits 150,[192] 152,[193] 153,[194] 154,[195] and 155[196] provide further support for this finding. Each of these exhibits is a document created at or around the time that IIGET was established. While these exhibits are not all as directly germane to this issue as the passage reproduced above, each includes language that supports the view held by Mr. Robertson, Mr. Holland, and Mr. Begg that the investigation of illegal activity in legal venues, including money laundering, fell within the unit's formal mandate. I was presented with no evidence of any documentation that would support the contrary view.

The witnesses that held this contrary view – Mr. Coleman, Mr. Vander Graaf, Mr. Schalk, and Mr. Sturko – were certainly well positioned to be knowledgeable about the purpose and, to some extent, activities of IIGET. However, each held positions likely to leave them somewhat removed from detailed knowledge of the technicalities of the unit's mandate. It seems plausible to me that their evidence regarding the unit's mandate may have been based on their understanding of the primary purpose for which the unit was created rather than knowledge of its formal mandate. While I do not doubt that their evidence was a genuine reflection of their understanding of the mandate of IIGET, for the reasons outlined above, I find that they were mistaken.

Effective Mandate of IIGET

The conclusion above regarding IIGET's "formal mandate," however, does not completely resolve the question of the mandate of the unit. Based on the evidence before me, it is necessary to consider whether the formal mandate identified above accurately reflects what was expected of the unit. This question of the unit's "effective mandate" is important, as it may result in different conclusions regarding the significance of the creation, and eventual disbanding, of the unit and whether those charged with leading the unit effectively discharged their responsibilities.

There are numerous indications that the unit's effective mandate may have differed from its formal mandate. First, as discussed above, Mr. Coleman, who was the minister responsible for gaming, advised that the rationale for the creation of the unit was to combat a perceived problem with illegal gambling outside of legal casinos, such as illegal video lottery terminals and common gaming houses.[197]

192 Exhibit 150, Memo from S/Sgt T Robertson Re Introduction and Mandate of the RCMP's Integrated Illegal Gaming Enforcement Team (November 10, 2004).

193 Exhibit 152, RCMP – Five Year Strategic Projection Provincial Policing – 2004–2009.

194 Exhibit 153, S/Sgt F. Pinnock – IIGET Consultative Board Meeting Minutes (November 26, 2007).

195 Exhibit 154, Integrated Illegal Gaming Enforcement Team RCMP and GPEB Consultative Board Meeting (November 29, 2004).

196 Exhibit 155, RCMP Background (2003–05).

197 Evidence of R. Coleman, Transcript, April 28, 2021, pp 39–41.

Secondly, Mr. Begg provided a compelling explanation for why the formal mandate of IIGET included illegal activity in legal gaming venues if that was not the unit's intended purpose. Mr. Begg's evidence was that illegal activity in legal venues was included in the unit's formal mandate to ensure that the unit could follow an investigation wherever it may lead, including into the realm of legal gaming.[198] Mr. Begg agreed that the intention at the time the unit was created was that the unit's focus would be on illegal gaming taking place outside of legal casinos.[199]

Thirdly, there is evidence that the IIGET consultative board provided direction to the unit to focus on illegal gaming outside of legal venues. Multiple witnesses indicated that there were three levels of investigative targets within the unit's mandate:[200]

- low-level – i.e., illegal lotteries, illegal bingos, illegal raffles;[201]
- mid-level – i.e., common gaming houses, video lottery terminals, pyramid schemes, animal fighting;[202] and
- high-level – i.e., loan sharking, money laundering, illegal online gaming, bookmaking, distribution of video lottery terminals.[203]

Mr. Begg, who chaired the consultative board, gave evidence that the board directed Mr. Pinnock to focus on "mid-level" targets.[204] Mr. Pinnock's evidence and materials from a 2007 consultative board meeting corroborate this direction.[205] Mr. Holland gave evidence that this direction remained in place when he took command of the unit and that he agreed with the direction.[206]

Finally, both Mr. Robertson and Mr. Holland gave evidence that they did not believe that IIGET had the resources to effectively investigate money laundering and cash facilitation in legal gaming venues and as such, both directed the unit to focus on mid-level illegal gaming investigations.[207] While the absence of resources adequate to

198 Evidence of K. Begg, Transcript, April 21, 2021, pp 26–27.

199 Ibid.

200 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 57–58; Evidence of K. Begg, Transcript, April 21, 2021, pp 32–33; Evidence of W. Holland, Transcript, December 2, 2020, pp 107–08, 111–12; Evidence of D. Sturko, January 28, 2021, pp 117–18; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 34–35.

201 Evidence of F. Pinnock, Transcript, November 5, 2020, p 58 and Transcript, November 6, 2020, pp 5–8; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 34–35.

202 Evidence of F. Pinnock, Transcript, November 5, 2020, p 58 and Transcript, November 6, 2020, pp 5–8; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 34–35.

203 Evidence of F. Pinnock, Transcript, November 5, 2020, p 58 and Transcript, November 6, 2020, pp 5–8; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 34–35; Evidence of W. Holland, Transcript, December 2, 2020, pp 108–9, 112.

204 Evidence of K. Begg, Transcript, April 21, 2021, pp 32–33.

205 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 57–58; Exhibit 315, IIGET Status Report – IIGET Consultative Board Meeting (July 25, 2007).

206 Evidence of W. Holland, Transcript, December 2, 2020, pp 109–10.

207 Evidence of W. Holland, Transcript, December 2, 2020, pp 109–10, 113-114; Evidence of T. Robertson, Transcript, November 6, pp 35, 46-48, 109–10.

investigate money laundering and cash facilitation is not determinative of whether the unit was intended to address those matters, the decision of two officers-in-charge of the unit to respond to that lack of resourcing by focusing the unit's attention elsewhere suggests that neither viewed illegal activity in legal venues as central to the unit's purpose.

Based on this evidence, I find that, the effective mandate of IIGET notwithstanding, the unit's formal mandate, was focused on mid-level illegal gaming investigations outside of legal gaming venues. The unit, as constituted, was never intended as a response to money laundering and cash facilitation in legal casinos, nor was it equipped to effectively address those issues.

Below I discuss requests by officers-in-charge of the unit for additional resources. Given its formal mandate, which did include the investigation of money laundering, had the unit's resources been increased as requested and had it not been disbanded, it is possible this unit could have played a role in identifying and disrupting the emerging money laundering problem that grew significantly following its disbandment. I do not suggest this would have been a complete answer to the problem, but as a unit created to work closely with GPEB, if sufficiently resourced, IIGET would have been well placed in the years following its disbandment to support GPEB in investigating suspicious cash and to use its full police powers to fulfill some of the investigative functions the Branch felt were beyond its capability. It was not until 2016 with the creation of the Joint Illegal Gaming Investigation Team that there was another gaming-focused investigative unit in the province.

Relationship Between IIGET and the GPEB Investigation Division

As indicated above, the MOU establishing IIGET provided that GPEB would furnish office space and administrative support for the unit at no cost to the RCMP.[208] Based on the evidence before me, however, it appears that that relationship between these two units was intended to be much deeper than the sharing of space and administrative support.

The intention at the time that IIGET was created was that it would work closely with the GPEB investigation division in what Mr. Vander Graaf described as a "full-time partnership."[209] Mr. Robertson offered a similar, but more detailed description of how the relationship between the two units was intended to function. Mr. Robertson's understanding was that the two units were intended to be co-located in four locations around the province, share information about illegal gaming as well as information arising from legal gaming environments and lend personnel to one another to assist in investigations as needed.[210]

208 Exhibit 77, OR: IIGET, Appendix A, 2003 Integrated Illegal Gaming Enforcement Team Memorandum of Understanding, para 3.3.

209 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 25–26; see also Exhibit 181, Vander Graaf, para 95.

210 Evidence of T. Robertson, Transcript, November 6, pp 51–52; see also Evidence of K. Begg, Transcript, April 21, 2021, p 27.

While Mr. Robertson's evidence was that this relationship functioned as intended and offered benefits during his tenure as officer-in-charge of IIGET,[211] it is evident that the partnership did not continue as expected. Leadership from both units testified to the practical challenges in the relationship between the units. Mr. Vander Graaf gave evidence of his belief that joint initiatives involving members of both units became impossible due to differences in the powers, capabilities, and resourcing of the two units. According to Mr. Vander Graaf, GPEB investigators, for example, could not conduct surveillance or undercover investigations, could not manage informants, did not have the arrest powers of their counterparts in IIGET and were expected to use their own vehicles in conducting their work.[212] Mr. Pinnock attributed the inability of the two units to work together in part to differences in the nature of the investigations they undertook, with GPEB focused on "low-level" targets and IIGET on "mid-level" targets (and, as will be discussed further below, during Mr. Pinnock's tenure, a single high-level target).[213] Mr. Vander Graaf and Mr. Schalk both also pointed to staffing levels and priorities as impediments to the partnership as envisioned, as neither unit seemed to have sufficient personnel to regularly contribute to initiatives led by the other.[214] As a result of these challenges, both Mr. Vander Graaf and Mr. Pinnock described the functional relationship between the two units as "coordinated" rather than the "full partnership" originally envisioned.[215]

Alongside these practical challenges, there is some evidence before me of interpersonal conflict between the leadership of the two units. This evidence differed among the witnesses as to the nature, extent and impact of this conflict. Neither Mr. Robertson nor Mr. Holland identified any difficulties in the relationship between IIGET and the GPEB investigation division,[216] though Mr. Holland agreed that there was minimal coordination between the units during his tenure, as the investigations undertaken by IIGET during the time that he led the unit were not of the sort that would offer opportunities for joint investigations.[217] To the extent that interpersonal conflict between the leadership of the two units impeded the ability of IIGET and the GPEB investigation division to work together, it appears that it took place during Mr. Pinnock's tenure.

While Mr. Schalk, Mr. Vander Graaf and Mr. Pinnock all acknowledged some level of conflict, their evidence differed significantly as to its degree, source, and impact. Mr. Pinnock's evidence was that the relationship between the two units was unhealthy

211 Evidence of T. Robertson, Transcript, November 6, pp 52–53.

212 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 25–26; Exhibit 181, Vander Graaf #1, para 95.

213 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 57–58, 80–82, 108–9.

214 Evidence of J. Schalk, Transcript, January 22, 2021, pp 126–28; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 26–28, 33–34.

215 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 25–26; Evidence of F. Pinnock, Transcript, November 5, 2020, p 80.

216 Evidence of W. Holland, Transcript, December 2, 2020, pp 114–15; Evidence of T. Robertson, Transcript, November 6, 2020, pp 52–53.

217 Evidence of W. Holland, Transcript, December 2, 2020, pp 114–16.

from the time that he took command of IIGET.[218] He identified the source of that conflict as disagreement as to the mandate of IIGET, as well as some level of "interpersonal hostility" between himself and Mr. Schalk.[219] As an example of this disagreement over the unit's mandate, Mr. Pinnock cited an incident in which he asked a GPEB investigator about issues at Hastings Racecourse, which upset Mr. Schalk and prompted him to accuse Mr. Pinnock of "trying to build an empire."[220] While Mr. Pinnock acknowledged that his relationship with Mr. Schalk did improve over time, he also attributed his decision to move IIGET out of GPEB's Burnaby office to these tensions.[221]

Mr. Schalk and Mr. Vander Graaf both agreed that there was some level of personality conflict between Mr. Schalk and Mr. Pinnock but did not recall significant tensions between the two units.[222] Neither believed that the conflict between Mr. Schalk and Mr. Pinnock had an impact on the ability of IIGET or the GPEB investigation division to do their jobs.[223] Neither Mr. Vander Graaf nor Mr. Schalk believed that disagreements over whether IIGET's mandate included illegal activity in legal gaming facilities were a major source of conflict with Mr. Pinnock.[224] Rather, both identified Mr. Pinnock's decision to focus on a high-level illegal online gaming target as a source of disagreement between Mr. Pinnock and themselves.[225] In their evidence, both Mr. Vander Graaf and Mr. Schalk agreed that whether or not illegal activity in legal venues fell within IIGET's mandate, as police officers, the members of that unit had the right, in the words of Mr. Vander Graaf, to "investigate anywhere, any time, any place they wished."[226] Mr. Schalk denied accusing Mr. Pinnock of trying to build an empire – or of any knowledge of Mr. Pinnock's request for information about the Hastings Racecourse[227] and testified that Mr. Pinnock's assertion that the relocation of his unit was caused by conflict with Mr. Schalk was contrary to his understanding of the reasons for the move.[228]

The state of the personal relationship between Mr. Schalk and Mr. Pinnock is not itself of any particular significance to the mandate of this Commission. However, it is

218 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 135–36 and Transcript, November 6, 2020, p 10.

219 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 59–60, 79, 86–87, 135–37 and Transcript, November 6, 2020, pp 10–11.

220 Evidence of F. Pinnock, Transcript, November 5, 2020, p 59.

221 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 77, 82–84 and Transcript, November 6, 2020, pp 10–13; Exhibit 156, Memo from NCO IIGET "E" Division Re Status Report – Integrated Illegal Gaming Enforcement Team (March 14, 2007).

222 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 41–45; Evidence of J. Schalk, Transcript, January 22, 2021, pp 128–35.

223 Evidence of J. Schalk, Transcript, January 22, 2021, pp 133–35; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 44–45.

224 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 37–39; Evidence of J. Schalk, Transcript, January 22, 2021, pp 129–31.

225 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 37–39; Evidence of J. Schalk, Transcript, January 22, 2021, pp 129–31.

226 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 27–28, 37–39 and Transcript, November 13, pp 36–37; Evidence of J. Schalk, January 22, 2021, pp 123–25, 129–31.

227 Evidence of J. Schalk, Transcript, January 22, 2021, pp 128–30.

228 Ibid, pp 131–33.

deserving of comment in this report because it was relied on by Mr. Pinnock as one of two reasons why IIGET did not conduct investigations of illegal activity – including cash facilitation and money laundering – in legal gaming venues during his tenure as officer-in-charge of the unit. As discussed above, Mr. Pinnock initially relied on his understanding that such investigations were not within the mandate of the unit.[229] When presented with documentation suggesting the opposite,[230] however, Mr. Pinnock's evidence was that the unit could not have conducted such investigations in any event because he had been directed by his management to "get along" with GPEB, which, he said, did not want his unit active in legal gaming venues.[231] Accordingly, on Mr. Pinnock's version of events, the conflict between himself and the leadership of the GPEB investigation division (coupled with the direction to "get along" with his counterparts in the Branch) contributed to an absence of law enforcement engagement in the issues of money laundering and cash facilitation in legal casinos during the period that IIGET was active.

Despite Mr. Pinnock's assertion to the contrary, I am convinced that, while there was certainly some degree of conflict between the leadership of these units, this conflict was not the cause of IIGET's absence from legal gaming venues.

There are several factors that cause me to decline to accept Mr. Pinnock's evidence in this regard. First, Mr. Pinnock's evidence is lacking in internal coherence. As indicated above, Mr. Pinnock's initial evidence was that IIGET's mandate precluded the unit from conducting investigations in legal gaming establishments. It was only when Mr. Pinnock was presented with documentation to the contrary that he identified the tensions with the GPEB investigation division as a second rationale for failing to direct his unit to conduct such investigations. Mr. Pinnock offered no explanation for how conflict with the investigation division could have contributed to his unit's absence from legal gaming venues if it was always his understanding that such venues were outside of the unit's mandate in any event.

Secondly, Mr. Pinnock's explanation that IIGET's mandate was the source of any conflict with Mr. Schalk and Mr. Vander Graaf lacks credibility. Mr. Pinnock's view that such investigations were outside of his unit's mandate was shared by Mr. Vander Graaf and Mr. Schalk. As such it seems highly unlikely that this perspective would have led to tensions between these individuals, as there was simply no difference of opinion over which they could have disagreed. Further, even if there was a disagreement regarding the unit's mandate, it seems unlikely to have led to a conflict of the sort described by Mr. Pinnock, given the perspective shared by Mr. Vander Graaf and Mr. Schalk, both

229 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 58–60.

230 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 60–79; Exhibit 150, Memo from S/Sgt T. Robertson Re Introduction and Mandate of the RCMP's Integrated Illegal Gaming Enforcement Team (November 10, 2004); Exhibit 151, Integrated Illegal Gaming Enforcement Team – Implementation Plan of Operations (June 24, 2004); Exhibit 152, RCMP – Five Year Strategic Projection Provincial Policing – 2004–2009; Exhibit 153, S/Sgt F. Pinnock – IIGET Consultative Board Meeting Minutes (November 26, 2007); Exhibit 154, Integrated Illegal Gaming Enforcement Team RCMP and GPEB Consultative Board Meeting (November 29, 2004; Exhibit 155, RCMP Background (2003–05).

231 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 74–81, 86–88, 105, 138.

former RCMP officers, that police officers have the freedom to conduct investigations where and when they saw fit, regardless of the formal mandates of their units. In this regard, it is noteworthy that Mr. Pinnock's predecessor and successor both understood that IIGET's mandate *did* include illegal activity in legal venues. Despite the evidence that the unit conducted an operation in a legal venue during Mr. Robertson's tenure and that this operation prompted Mr. Vander Graaf to share his view that this was not within the unit's mandate,[232] both Mr. Robertson and Mr. Holland gave evidence of a healthy relationship with the GPEB investigation division.

I find that the explanation for these tensions offered by Mr. Schalk and Mr. Vander Graaf – that they arose from concerns about Mr. Pinnock's decision to focus on a high-level online gaming investigation and from interpersonal difficulties between Mr. Pinnock and Mr. Schalk – to be much more plausible. I am also satisfied that any such conflict was not a significant contributing cause of IIGET's absence from legal gaming venues.

Operations and Performance of IIGET

Initial Operations of IIGET

Despite challenges in bringing the envisioned partnership between IIGET and the GPEB investigation division to fruition, IIGET seemed to show promise in fulfilling its effective mandate when it commenced operations. Under Mr. Robertson, the members of the unit undertook a two-week training course in Ontario and the unit became operational in the fall of 2004.[233]

Mr. Robertson gave evidence that he made the decision to initially focus the unit's attention on minor investigations of illegal video lottery terminals and common gaming houses because of the limited illegal gaming experience among the members of the unit and the Crown prosecutors that would be prosecuting any charges arising from the unit's investigations.[234] Mr. Robertson's rationale for this focus was that these minor investigations would offer valuable learning experiences, while ensuring that investigative or prosecutorial errors would not leave the unit with nothing to show for months of investigative effort dedicated to a single large investigation.[235] Mr. Robertson also gave evidence of an interest in ensuring that the unit could be responsive to requests for assistance from local detachments and an understanding that the consultative board was interested in seeing concrete results from the unit.[236]

The evidence suggests that Mr. Robertson's approach proved fruitful, and the unit successfully investigated a number of illegal gaming operations – including common

232 Exhibit 165, Email from Donald Smith, Re IIGET File 05-661 Loansharking Investigation – February 2005; Evidence of T. Robertson, Transcript, November 6, 2020, pp 55–60.

233 Evidence of T. Robertson, Transcript, November 6, 2020, pp 31–32.

234 Ibid, pp 45–48, 79–80.

235 Ibid, pp 46–48.

236 Ibid.

gaming houses – during his tenure.[237] Mr. Robertson also gave evidence that the unit was actively investigating a number of targets at the time he left IIGET for another position after approximately a year with the unit.[238] Mr. Begg similarly recalled the unit's promising start, including warnings, charges, and active investigations of low and mid-level illegal gaming targets.[239]

High-Level Online Gaming Investigation

In a shift that would come to feature prominently in the eventual dissolution of IIGET, the unit's focus changed significantly after Mr. Pinnock succeeded Mr. Robertson as officer-in-charge.[240] Mr. Pinnock's evidence was that, after he took command of the unit, it conducted a few illegal gaming investigations of the sort the unit had focused on under Mr. Robertson, but that, early in his tenure, Mr. Pinnock made the decision to take on a single high-level investigation into an internet gaming operation.[241] This investigation would come to consume most of the unit's resources, hampering its ability to focus on other targets to the point where the unit failed to make any arrests or successfully recommend charges over the span of approximately one year.[242] Despite this concentration of the unit's resources, the investigation failed to yield results and was eventually transferred to an American law enforcement agency.[243]

The lack of success of this endeavour should not have come as a surprise to Mr. Pinnock. Mr. Robertson gave evidence that Mr. Pinnock raised with him the prospect of IIGET taking on this high-level online gaming investigation when they met around the time that Mr. Pinnock took command of the unit. Mr. Robertson's evidence was that he advised Mr. Pinnock that the unit lacked the resources to undertake that investigation and that doing so would not be consistent with the guidance provided by the consultative board.[244] Mr. Vander Graaf and Mr. Begg both gave similar evidence that the decision to undertake this investigation was contrary to the direction of the consultative board, with Mr. Begg indicating that Mr. Pinnock made the decision without informing the consultative board and that the board ultimately requested that the unit refocus its efforts on mid-level

237 Ibid, pp 31, 79.

238 Ibid.

239 Evidence of K. Begg, Transcript, April 21, 2021, pp 32–33.

240 Evidence of T. Robertson, Transcript, November 6, 2020, p 66.

241 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 57, 94–95, 108–110; Exhibit 162, Overview of the Report on the Integrated Illegal Gaming Enforcement Team (IIGET) Effectiveness Review by Catherine Tait (March 31, 2009).

242 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 57, 94–95, 108–110; Evidence of W. Holland, Transcript, December 2, 2020, p 108; Evidence of K. Begg, Transcript, April 21, 2021, pp 32–33; Exhibit 162, Overview of the Report on the Integrated Illegal Gaming Enforcement Team (IIGET) Effectiveness Review by Catherine Tait (March 31, 2009); Exhibit 77, OR: IIGET, Appendix C: Effectiveness Review of the Integrated Illegal Gaming Enforcement Team (confidential draft report, November 26, 2007), p 23.

243 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 108–10; Evidence of W. Holland, Transcript, December 2, 2020, p 108; Exhibit 162, Overview of the Report on the Integrated Illegal Gaming Enforcement Team (IIGET) Effectiveness Review by Catherine Tait (March 31, 2009); Evidence of K. Begg, Transcript, April 21, 2021, pp 32–33.

244 Evidence of T. Robertson, Transcript, November 6, 2020, p 66–67.

illegal gaming investigations.[245] Mr. Schalk also gave evidence that he advised Mr. Pinnock against pursuing the investigation.[246] Mr. Pinnock acknowledged that he "disregard[ed] the direction of the consultative board" in deciding to focus on the online gaming investigation, but that he "felt it was necessary to make that [his] priority for a certain period of time."[247]

Return to Focus on Mid-Level Illegal Gaming Investigations

In 2007, Mr. Pinnock was succeeded as officer-in-charge of IIGET by Mr. Holland.[248] Mr. Holland gave evidence that provided insight into the impact of the singular focus on the online gaming investigation. He testified that when he took command of the unit, there was a backlog of 400 files that had not been addressed while the unit was focused on the online gaming investigation.[249] Mr. Holland's evidence was that the direction of the consultative board at that time – with which Mr. Holland agreed – was to refocus the unit's priorities toward mid-level targets.[250]

Under Mr. Holland, the unit's priorities were to clear the backlog of 400 files, which was eventually achieved,[251] produce a threat assessment and work toward implementation of the recommendations of an effectiveness review of the unit prepared by consultant Catherine Tait, discussed later in this chapter.[252]

IIGET Threat Assessment

Based in part on experience gained in previous roles, Mr. Holland identified early on in his tenure with IIGET that a threat assessment would assist in setting a future course for the unit.[253] Mr. Holland described the nature and purpose of the threat assessment as follows:[254]

> A threat assessment is the – it involves all partners. All municipal police departments, all the RCMP departments nationwide and as of 2003 it was determined by the RCMP with the support of municipal chiefs across the land that there would be an annual provincial threat assessment which would be put together with the ten other bureaus and be produced and developed into a national threat assessment that showed the scope and extent of criminal – organized criminal and serious crime across the nation. That's because criminals travel, enterprises are often international in scope.

245 Evidence of K. Begg, Transcript, April 21, 2021, pp 32–33; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 41–43.

246 Evidence of J. Schalk, Transcript, January 22, 2021, pp 129–30.

247 Evidence of F. Pinnock, Transcript, November 5, 2020, p 57.

248 Evidence of W. Holland, Transcript, December 2, 2020, pp 97–98.

249 Ibid, pp 107–12, 177.

250 Ibid, p 109.

251 Ibid, p 177.

252 Ibid, pp 109–12, 116, 121.

253 Ibid, pp 109, 119–20, 132–35.

254 Ibid, pp 133–35.

> So our threat assessment would have been simply that a data collection plan instrument in writing, electronic, would have been sent out to every police agency and criminal intelligence service throughout the RCMP and the municipal police agencies. They would collect information over a certain period. In this case it would be 2005 to 2008. They would send in their submissions to [the RCMP "E" Division Criminal Analysis Section], who would produce the provincial threat assessment annually.
>
> Our end of things would be to accumulate all information relating to illegal gaming, putting it into a document that would go into the provincial report and then subsequently into the national report. It really dealt with any individual or group who was engaged in illegal activity. And let's call illegal gaming a commodity. That commodity would be broken down into various activities, everything from book-making to pyramid schemes to common gaming houses, internet gaming, video game machine distributions, et cetera, in possession, illegal raffles. All those things would have gone in and a professional analyst would have put that into a succinct report and a proper report.
>
> ... It's getting all your information and putting it through an analytical process, coming up with hard confirmed facts as opposed to speculation.

The completed threat assessment seemed to confirm that there were significant ongoing issues with illegal gaming in the province that would have fallen within IIGET's "effective mandate."[255] It identified, for example, that in the time period covered by the assessment, there were 284 reports of illegal gaming in the province, often involving common gaming houses and illegal video gaming machines,[256] but also including animal fighting,[257] illegal bookmaking,[258] and pyramid schemes.[259]

Of particular relevance to the mandate of this Commission, the threat assessment also identified concerns related to "loan sharking" and money laundering, including activity connected to legal gaming facilities.[260] The report described concerns about "loan sharking" in the province as follows:[261]

> As mentioned in the Executive Summary, our research identified forty-seven individuals who were involved in suspected loan sharking activities. This number includes "runners", who act as a go-between the client and the actual loan shark. Anecdotally, some loan sharks are possessive of

255 Exhibit 77, OR: IIGET, Appendix Y, Extent and Scope of Illegal Gaming in British Columbia 2005 to 2008 (2009).

256 Ibid, pp 14, 20.

257 Ibid, pp 10–11.

258 Ibid, pp 11–13.

259 Ibid, p 19.

260 Ibid, pp 29–36.

261 Ibid, p 29.

> their "clients" and don't like another loan shark to deal with them. They can also be involved in associated criminal activities such as money laundering and extortion.
>
> ...
>
> There are several PRIME files about loan sharks threatening their "clients" in order to get them to pay back money. However, as explained in the Executive Summary, victims of crimes associated to illegal gaming are often reluctant to call the police unless they feel they are in significant danger. Anecdotal information suggests that victims will sometimes contact the police as a way of buying more time with the loan shark.

The report continues on to identify individuals believed to be responsible for several "loan sharking rings," including those identified as active at legal Lower Mainland gaming venues.[262]

With respect to money laundering, the threat assessment focuses on the contents of a 2008 report prepared by the Criminal Analysis Branch of the RCMP Criminal Intelligence Directorate titled "Project Streak – Money Laundering in Casinos: A Canadian Perspective."[263] The threat assessment's summary of the conclusions of this report included the following:[264]

> In June the 2008 RCM Police Criminal Intelligence Directorate, Criminal Analysis Branch produced a comprehensive report called Project Streak – Money Laundering in Casinos: A Canadian Perspective. The purpose of this report was to determine the vulnerability of Canadian casinos to money laundering and illicit organized crime activities. This document was very informative and had many points relative to the British Columbian situation. Particular points of interest were:
>
> - Canadian casinos are extremely vulnerable to money laundering because they deal in cash and handle tens of millions of dollars every day.
>
> - Organized crime is present in casinos at several levels. Members of organized crime regularly visit Canadian casinos to gamble. Many investigations have shown that members of organized crime also use casinos for criminal purposes (e.g. loan sharking and money laundering) and that some of these criminal elements have successfully infiltrated the industry.

262 Ibid, pp 29–31.

263 Ibid p 32; see also Exhibit 77, OR: IIGET Appendix X, Strategic Intelligence Assessment – Project Streak Money Laundering in Casinos: A Canadian Perspective (December 2007).

264 Exhibit 77, OR: IIGET, Appendix Y, Extent and Scope of Illegal Gaming in British Columbia 2005 to 2008 (2009), pp 32–33.

- Since 2003, FINTRAC (Financial Transactions and Reports Analysis Centre of Canada) has sent several disclosure reports to the RCMP on suspicious transactions involving casinos throughout Canada, with amounts totaling over $40 million. Anecdotally, police managers have suggested that because of other priorities and a lack of resources, at this time, nothing is being done to investigate these situations.

The threat assessment detailed a number of reports regarding suspicious transactions or potential money laundering in British Columbia casinos.[265]

Mr. Holland spoke of his reaction to the conclusions of the threat assessment with respect to cash facilitation and money laundering in legal casinos and his views of their significance:[266]

> It was persuasive. I forget the number. It might've been – it was certainly more than a few loan sharks that were identified just in a short time period of our data collection plan. It certainly confirmed, thanks to the excellent efforts of specialized RCMP sections, that money laundering was [occurring] and had been investigated and had been confirmed in written detail. And frankly the contents I can't speak of here, but certainly one has only to turn to open source media over the past years to be aware – made aware of the volume of currency that was being allegedly laundered through legal casinos.
>
> Not to blame anyone, but it was occurring. And frankly I'd seen a lot and heard a lot. As a police officer, I was absolutely amazed, as I'm sure the general public was subsequently when it came out, of the extent of this illegal activity. Our colleagues in GPEB had been telling for all my tenure there, it's just now it was confirmed it was solid evidence to move forward.

The implications of these conclusions for the future of IIGET will be addressed below. It is worth pausing at this point however, to note that as of the date of the threat assessment, January 5, 2009, it is evident that, at least within the RCMP, concerns were being raised about suspicious transactions in British Columbia casinos and connections drawn between cash facilitation in casinos and money laundering. Further, it is significant that, even at this time, the threat assessment identified an absence of any meaningful response from law enforcement due to competing priorities and a lack of resources.

IIGET Effectiveness Review

The third priority identified by Mr. Holland was the implementation of IIGET Effectiveness Review, completed in 2007 by Catherine Tait Consulting.[267]

265 Ibid, pp 34–36.

266 Evidence of W. Holland, Transcript, December 2, 2020, pp 136–37.

267 Ibid, pp 110, 112, 116, 121; Exhibit 77, OR: IIGET, Appendix C, Effectiveness Review of the Integrated Illegal Gaming Enforcement Team (2007).

The purpose of this review, which was required by the MOU that established IIGET,[268] was to "[provide] an assessment of the extent to which IIGET has achieved its objectives to date, as well as recommendations to improve the operation and performance of IIGET."[269] The report produced at the conclusion of the review provided an assessment of the unit's objectives in the areas of "education and partnerships,"[270] "intelligence,"[271] and "enforcement."[272]

The fourth chapter of the effectiveness review, titled "Achievement of Objectives" concludes on a relatively positive note, commenting on the unit's successes as follows:[273]

> In terms of its stated objectives, IIGET has had some successes. The educational efforts of the early period did result in an increase in reports of illegal gaming activity, indicating increased awareness, likely among law enforcement agencies and non-profit organizations. In 2005 and 2007, take downs conducted by IIGET have shut down several mid-level illegal gaming operations. Hundreds of organisations operating illegal lotteries have been warned that their activity must be licensed.
>
> In addition to the results of the program, staff report that they feel well supported and have the equipment and training that they need to do their work. Almost everyone in GPEB has worked for the RCMP in the past and they feel comfortable with, and understand the RCMP working environment of their colleagues. Staff on both the GPEB and the RCMP side report that the two components get along well and there is a good atmosphere of open communication and co-operation between themselves. While the division of responsibilities between GPEB and the RCMP staff has evolved over time, most staff have a clear understanding of, and accept, their respective roles.

While this section of Ms. Tait's report does not focus on the impact of the high-level illegal online gaming investigation initiated under Mr. Pinnock's leadership, the following section of that report speaks to the challenges this investigation posed for the unit.[274] Mr. Tait noted that a shift toward high-level targets had been raised with, but not endorsed by, the consultative board in April 2006. However, she observed that by the time of the next consultative board meeting in December 2006, the unit had been working on the high-level online gaming investigation "for almost a year to the near exclusion of mid-level investigations" prompting the board to direct the unit to refocus its efforts on mid-level targets.[275]

268 Exhibit 77, OR: IIGET, Appendix A, Integrated Illegal Gaming Enforcement Team Memorandum of Understanding (2003), para 4.3(c).

269 Ibid, Appendix C, Effectiveness Review of the Integrated Illegal Gaming Enforcement Team (2007), p 2.

270 Ibid, pp 12–15.

271 Ibid, pp 15–19.

272 Ibid, pp 20–27.

273 Ibid, p 27.

274 Ibid, pp 28–31.

275 Ibid, p 29.

In her report, Ms. Tait noted that there appeared to be a consensus among those who participated in the review that, at then-current levels of resourcing, IIGET would not be able to successfully target both mid- and high-level targets.[276] Ms. Tait recommended that the consultative board be provided with additional information regarding resourcing levels for the unit, including through the development of a business case (discussed in more detail later in this chapter), to assist in determining whether resourcing for the unit should be increased, and if not, whether the unit should focus on mid-level or high-level targets.[277] In the interim, Ms. Tait recommended that the MOU establishing the unit be extended for one year, during which the unit would continue to focus on mid-level investigations.[278]

Significantly, while Ms. Tait declined to make a recommendation as to whether the unit should have been expanded, the report clearly advised against disbanding the unit entirely:[279]

> Based on the information compiled for this review, a decision to discontinue IIGET at this point does not seem appropriate. Such a decision would likely see enforcement by GPEB staff continue (as they are not funded through the IIGET MOU), but an end to the RCMP investigation of mid-level and (potentially) high level targets. There is a backlog of outstanding cases, largely at the mid-level of investigation, an area where IIGET has demonstrated its ability to succeed. In addition, it appears that no other police agency is likely to fill the void left by the RCMP component if IIGET were to disband. Mid-level targets could, in theory, be taken on by local police departments and detachments as was done prior to the establishment of IIGET. Most staff feel however, that local police lack the time and specialised knowledge to undertake these types of investigations. IIGET now has trained and experienced staff who have demonstrated their ability to handle mid level targets.
>
> To the extent that organised crime is involved in high level illegal gaming, it is possible that the [Combined Forces Special Enforcement Unit] may target some of the same individuals that IIGET would target in high level investigations. However, the focus of that unit is on particular organisations and individuals rather than on a particular type of activity such as illegal gaming. E-Division RCMP have indicated that it is very unlikely that CFSEU would take on major illegal gaming investigations as such.

In addition to this suggestion that the unit not be disbanded, the report also included recommendations in other areas including staff turnover and vacancies; integration and coordination with GPEB; the addition of municipal police department members on

276 Ibid, pp 29–30.

277 Ibid, p 31.

278 Ibid.

279 Ibid, p 95.

secondment to the unit; data collection and analysis; First Nations gaming; the role of the BCLC in funding the unit; and the operation of the consultative board.[280]

In accordance with the recommendations made as part of the effectiveness review, Mr. Holland sought a one-year extension of IIGET on January 15, 2008.[281] The extension was granted.[282]

Proposals to Reform IIGET

Over the course of the tenures of Mr. Pinnock and Mr. Holland as officers-in-charge of IIGET, the two officers prepared three proposals to expand the size and/or mandate of the unit.[283] Two of these – one to expand the size of the unit and one to form a "Provincial Casino Enforcement / Intelligence Unit" – were prepared in 2007 during Mr. Pinnock's tenure as officer-in-charge of the unit.[284] The third was prepared in 2008 during Mr. Holland's tenure.[285]

June 27, 2007: Business Case for the Formation of a Provincial Casino Enforcement / Intelligence Unit

The first business case prepared by Mr. Pinnock was dated June 27, 2007 and titled "Business Case for the Formation of a Provincial Casino Enforcement / Intelligence Unit."[286]

While this business case was developed before the threat assessment discussed above, Mr. Pinnock seems to anticipate the conclusions of that threat assessment regarding the absence of a meaningful law enforcement presence in legal gaming venues to combat what Mr. Pinnock presents as a "significant organized crime presence" in casinos:[287]

> Legal gaming venues within British Columbia exist primarily in the form of licensed casinos and horse racing tracks. There is a significant organized crime presence already firmly entrenched within several of these venues. This is manifested in many forms, specifically loansharking, money laundering, counterfeiting, drug trafficking, institutional corruption and frequent acts of violence and intimidation. A major part of the problem lies in the fact that there is little, if any, enforcement effort being initiated

280 Ibid, pp 32–38

281 Exhibit 77, OR: IIGET, para 52; Appendix T, Request for Renewal of the Memorandum of Understanding

282 Ibid, para 55.

283 Ibid, paras 32–37, 41–43, 50–51.

284 Ibid, paras 32–37, 41–43; Appendix O, Business Case for the Expansion of Integrated Illegal Gaming Enforcement Team; Appendix Q, Business Case for the Formation of a Provincial Casino Enforcement / Intelligence Unit; Evidence of F. Pinnock, Transcript, November 5, 2020, pp 95–99, 102–3.

285 Exhibit 77, OR: IIGET, paras 50–51; Appendix S, "Building Capacity": Expansion of the Integrated Illegal Gaming Enforcement Team (IIGET).

286 Ibid, Appendix Q, Business Case for the Formation of a Provincial Casino Enforcement / Intelligence Unit.

287 Ibid, para 41; Appendix Q, Business Case for the Formation of a Provincial Casino Enforcement / Intelligence Unit.

> by the police at these locations. Police agencies of jurisdiction do respond to calls for service at these locations. These agencies do not, however, operate at resource and training levels which are sufficient to target the criminal element which thrives in these environments.

Mr. Pinnock explained the basis for these beliefs during his oral testimony. He explained that, based on briefings he received during his tenure with IIGET, he formed the view that "the offences of money laundering and loan sharking were escalating in frequency, particularly in the River Rock Casino, but to a lesser extent in other big ones."[288] While Mr. Pinnock did not receive information about suspicious cash in casinos from GPEB during this time period, he indicated that he learned from "police officers within [his] circle that they had heard rumblings that things were getting out of hand in those environments."[289]

In this business case, Mr. Pinnock recommends that the mandate of IIGET be expanded to include legal venues or that, alternatively, a separate unit focused on legal casinos, but reporting to the officer-in-charge of IIGET, be established:[290]

> IIGET does not currently possess the mandate to target criminal activity within legal gaming venues. It would seem appropriate to broaden the mandate to permit this to happen or, alternatively, to create a casino/racetrack unit to report to [the non-commissioned officer-in-charge of] IIGET under [the officer-in-charge of the] Major Crime Section (outside of the IIGET structure). As the majority of targets operate freely between legal and illegal gaming environments, it would be unwise to create an artificial firewall between separate units. For optimal effectiveness, constant communication must be fostered under one central command. IIGET with a broadened mandate is the recommended vehicle to ensure this occurs.

Mr. Pinnock's recollection was that this proposal was forwarded to his superiors within the RCMP, but he was unsure if it was provided to the consultative board.[291] Based on the evidence of Mr. Begg, who had no recollection of receiving this business case, or of it being reviewed by the consultative board,[292] it does not seem that it was provided to the board or the provincial government.

While it does not seem that this business case advanced beyond the RCMP hierarchy, there is evidence to suggest that it received some level of support among Mr. Pinnock's superiors and colleagues. An email written by Mr. Pinnock indicated that his preparation of the business case had been approved by his superior, Dick Bent, and that Mr. Clapham

288 Evidence of F. Pinnock, Transcript, November 5, 2020, p 90.

289 Ibid, pp 92–93; Exhibit 77, OR: IIGET, Appendix Q, Business Case for the Formation of a Provincial Casino Enforcement / Intelligence Unit.

290 Ibid, para 42.

291 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 97–98, 132–33.

292 Evidence of K. Begg, Transcript, April 21, 2021, pp 37–38.

supported the creation of the unit proposed by Mr. Pinnock. It also indicated that, were any gaming-focused resources for the Richmond detachment to be approved by the City of Richmond, Mr. Clapham was prepared to dedicate those resources to Mr. Pinnock's unit.[293]

July 20, 2007: Business Case for the Expansion of IIGET

The second business case prepared by Mr. Pinnock was dated July 20, 2007, and titled "Business Case for the Expansion of Integrated Illegal Gaming Investigation Team (IIGET)."[294]

In this document, Mr. Pinnock recognizes that the unit was not adequately resourced to target both mid- and high-level targets:[295]

> Operationally, the IIGET Consultative Board has received consistent reporting from a succession of unit commanders. This integrated unit, while founded upon the three tenets of enforcement, intelligence and education, is expected to deliver measurable enforcement results impacting low, medium and high level targets. At current resource levels, IIGET is capable of addressing two of these, while unable to target at the high level. It is unlikely that high level gaming targets will be among those selected for targeting by CFSEU or any other similarly mandated unit. As a result, it naturally falls to IIGET to target at this level. At current resource levels, however, IIGET is positioned to target at the medium *or* high enforcement levels, but not both. [Emphasis in original.]

Mr. Pinnock recommended that 12 staff members be added to the unit's existing complement of 13, resulting in an expanded unit structured as follows:[296]

- one unit commander – staff sergeant
- Team A: one sergeant / one corporal / four constables
- Team B: one sergeant / one corporal / four constables
- one criminal intelligence analyst
- two clerical staff
- three outlying district offices, each comprised of: one corporal / two constables

According to Mr. Pinnock, this business case was forwarded to and received consideration from the RCMP "E" Division senior leadership. Mr. Pinnock's recollection

293 Exhibit 100, Email from Ward Clapham to Mahon and Pinnock Re: River Rock Casino – A Policing Response; Evidence of W. Clapham, Transcript, October 27, 2020, pp 156–60.

294 Exhibit 77, OR: IIGET, Appendix O, Business Case for the Expansion of Integrated Illegal Gaming Enforcement Team.

295 Ibid, para 34; Appendix O, Business Case for the Expansion of Integrated Illegal Gaming Enforcement Team.

296 Ibid, para 35; Appendix O, Business Case for the Expansion of Integrated Illegal Gaming Enforcement Team.

is that it was returned with suggested revisions and, while it was not implemented during his tenure, it was also not formally rejected.[297]

Mr. Begg recalled that this business case was reviewed by the IIGET consultative board, but that the consultative board did not respond to the business case, as the effectiveness review was then ongoing and no action could be taken on the business case until the results of the review were known.[298] Mr. Begg also testified that it would not have been the role of the consultative board to determine whether to implement the changes proposed in the business case, which would have required Treasury Board approval if additional funding was needed.[299] In this instance, the business case was not forwarded to the Treasury Board, nor was it provided to then Solicitor General John Les.[300]

December 19, 2007: "Building Capacity" Business Case

At the end of 2007, early in Mr. Holland's tenure as officer-in-charge of IIGET, he, along with Acting Staff Sergeant Andrew Martin, prepared a third business case, also proposing the expansion of the unit. This business case was prepared with the benefit of the results of the effectiveness review and was prepared in response to Ms. Tait's identification of the need for additional information to permit consideration of whether the unit should be expanded.[301] It is clear from this business case that Mr. Holland, at least, believed the expansion of the unit to be justified.

Like Mr. Pinnock's second business case, Mr. Holland's sought a significant increase in the size of IIGET in order to fulfill its existing mandate:[302]

> It is proposed that there be a doubling of IIGET's existing authorized strength, which currently consists of twelve (12) regular RCMP members, one (1) temporary civilian employee and one (1) public service employee.
>
> Specifically, the proposal stipulates the need for additional police officers of varying ranks as well as additional administrative support and a full-time person who is capable of conducting strategic as well as tactical analysis. The additional resources will be allocated within the existing satellite IIGET offices in Victoria, Kelowna, Prince George and Burnaby.
>
> The resources are required in order to address a significant backlog of files that remain in the "still under investigation" status due to a lack of investigative, analytical and clerical personnel.

297 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 97–98.

298 Evidence of K. Begg, Transcript, April 21, 2021, pp 34–37.

299 Ibid.

300 Ibid.

301 Exhibit 77, OR: IIGET, Appendix S, "Building Capacity": Expansion of the Integrated Illegal Gaming Enforcement Team (IIGET), p 1; Evidence of W. Holland, Transcript, December 2, 2020, p 122.

302 Exhibit 77, OR: IIGET, Appendix S, "Building Capacity": Expansion of the Integrated Illegal Gaming Enforcement Team (IIGET), p 1.

> The IIGET budget for fiscal 2007-2008 is projected to $2,013,295. The cost for a doubling of establishment, provided in detail within the "budget" component of this document, will be an additional $2,372,105 annually, exclusive of any and all start up and/or infrastructure costs in fiscal 2008-2009.
>
> An annual budget of $4,210,600 will therefore be required.

Unlike Mr. Pinnock, Mr. Holland did not propose changes to IIGET's mandate. As indicated above, however, Mr. Holland understood that the unit's mandate already encompassed illegal activity in legal gaming venues, including "loan sharking" and money laundering. Mr. Holland made clear in his oral evidence that, had this business case been implemented and the unit expanded as proposed, he believed that IIGET would have been able to dedicate investigative resources to investigating "loan sharking" and money laundering in legal gaming venues.[303]

In addition to recommending the expansion of the unit, Mr. Holland's business case also recognized the disbanding of IIGET as an option. Like Ms. Tait, Mr. Holland described the likely outcomes of that option in unfavourable terms:[304]

> *Option #1* – The Consultative Board could collapse and disband IIGET
>
> Should such an eventuality occur:
>
> - Illegal gaming enforcement would be the responsibility of each municipal jurisdiction.
> - The likelihood of effective and collaborative integrated intelligence and enforcement action would be diminished.
> - There are presently no other trained, competent police personnel to fill the void left should IIGET cease to exist.
> - Mid and high level targets would conduct their illicit operations with impunity, given the fact that GPEB is prohibited by virtue of their provincial special constable status to take full enforcement action against them.

Mr. Holland explained in his evidence that, in this final bullet point, the "high level targets" and "their illicit operations" that would operate with "impunity" if the unit was disbanded included "loan-sharking" and money laundering.[305] Despite these warnings, the multiple proposals from the officers-in-charge of the unit for its expansion, and the threat assessment prepared under Mr. Holland's leadership, IIGET was disbanded in 2009, within 16 months of the date of Mr. Holland's proposal. The events leading to the dissolution of the unit are described below.

303 Evidence of W. Holland, Transcript, December 2, 2020, pp 129–31.

304 Exhibit 77, OR: IIGET, Appendix S, "Building Capacity": Expansion of the Integrated Illegal Gaming Enforcement Team (IIGET), p 10.

305 Evidence of W. Holland, Transcript, December 2, 2020, pp 125–26.

Disbanding of IIGET

Mr. Holland gave evidence that he understood the consultative board was supportive of the "Building Capacity" business case and that he received indications that there was support for expansion of IIGET.[306] These indications included the commencement of renovations to the unit's office and a decision to permit the unit to retain all of its members during the 2010 Vancouver Winter Olympics, a time of extensive redeployment of law enforcement personnel to focus on the security of the Games.[307]

From Mr. Holland's perspective, the first indication that the unit's existence was in jeopardy came during a consultative board meeting in December 2008. Mr. Holland recalled that, at this meeting, Mr. Begg indicated that the unit may be disbanded.[308] In response, Mr. Holland asked for confirmation that Mr. Coleman, then the minister responsible for gaming, was aware that the disbanding of the unit was under consideration. Mr. Begg confirmed this.[309]

In his evidence, Mr. Begg provided additional insight into what took place during this period that was beyond Mr. Holland's visibility. Mr. Begg confirmed that he had received Mr. Holland's business case.[310] While Mr. Begg did not purport to speak for all members of the consultative board and said that the members of the board were individually responsible for briefing the ministers to whom they reported, he confirmed that he was not in favour of disbanding the unit and that the consultative board did not issue a recommendation to that effect.[311]

Mr. Begg's evidence was that, following receipt of Mr. Holland's business case, Mr. Begg's office prepared a proposal, consistent with the business case, for consideration by the Treasury Board.[312] This was one of two proposals related to the unit forwarded to the Treasury Board at that time. The second proposal was to shift the source of funding for the unit – at existing levels – from BCLC to government.[313] This second proposal was necessitated by a recommendation in the Tait report that BCLC should not continue to fund the unit, and a decision by BCLC that, consistent with that recommendation, it would not continue to provide funding.[314]

After submitting the two proposals, Mr. Begg learned that both had been rejected by the Treasury Board, jeopardizing not only the expansion of IIGET, but also the unit's continued existence.[315] Mr. Begg told me that, upon learning of this decision,

306 Ibid, pp 142–48.

307 Ibid, pp 143–47.

308 Evidence of W. Holland, Transcript, December 2, 2020, pp 148–51; Exhibit 316, IIGET Consultative Board Meeting Agenda (December 16, 2008).

309 Evidence of W. Holland, Transcript, December 2, 2020, pp 150–53.

310 Evidence of K. Begg, Transcript, April 21, 2021, pp 41–42.

311 Ibid, p 48.

312 Ibid, pp 43–44.

313 Ibid.

314 Ibid, pp 44–45, 63–66.

315 Ibid, pp 44–45.

he approached Mr. Sturko, then general manager of GPEB, and asked that he contact Mr. Coleman to see if he would intervene with the Treasury Board or BCLC in order to secure funding to ensure the unit could continue to operate.[316] Mr. Begg testified that four days later, Mr. Coleman contacted him, expressed concern about IIGET's performance, and indicated that Mr. Begg should advise the RCMP that funding would expire at the conclusion of the extension of the MOU that had been granted following the completion of Ms. Tait's review.[317] Mr. Begg then contacted Solicitor General John van Dongen, but Mr. van Dongen viewed the matter as principally a gaming issue and deferred to Mr. Coleman, the minister responsible for gaming.[318]

While Mr. Coleman's recollection of the events that led to the decision to disband the unit differed somewhat, the rationale he offered for the decision was consistent with Mr. Begg's. Mr. Coleman explained the decision in his evidence as follows:[319]

> IIGET unfortunately never did get to be that functional. It wasn't that successful. It was – it had trouble with focus on what its files were. And it was a five-year pilot project funded in a relationship with the BC Lottery Corporation.
>
> So its five years was coming up, and there were varying basic summaries and things that I read about its inefficiencies, the fact that we couldn't keep a full complement of officers in the particular operation and those things that led me to have some pretty significant concerns about it. And in light of that, when I met with these folks we had a roundtable discussion about the future of IIGET, one of them being whether it would continue or not.
>
> At the same time a recommendation had been to go in and get money from general revenue for the budget for this no longer to be funded by BC Lotteries.
>
> ...
>
> My information is the Treasury Board analyst was not going to recommend the continued funding of IIGET. So that coupled with the rest of that led me to the – to thinking to have this discussion and say look, given the fact that we've made one of the largest investments in policing in decades, I can't justify an operation that is effectively not very operational and not being successful and I think the gap can be picked up by this investment in the other police officers and in the Crown prosecutors. And so the decision was made that we wouldn't continue funding IIGET.

316 Ibid, pp 45–47.

317 Ibid.

318 Ibid, p 47.

319 Evidence of R. Coleman, Transcript, April 28, 2021, pp 101–2.

Mr. Coleman recalled the decision to disband IIGET being made in a meeting involving Mr. Coleman's deputy minister, Lori Wanamaker, Mr. Sturko, and Mr. Begg.[320] Mr. Coleman had no recollection of Mr. Begg advocating for the continuation of the unit and did not recall receiving any recommendation to that effect from the consultative board.[321]

Given the time that has passed since these events transpired, it is unsurprising that there are some differences in the recollections of the witnesses as to the details of the events leading to the decision to disband IIGET. Between the versions of events offered by Mr. Begg and Mr. Coleman, I prefer the evidence of Mr. Begg. Mr. Coleman's evidence regarding a meeting between himself, Mr. Begg, Mr. Sturko, and Ms. Wanamaker is contradicted not only by the evidence of Mr. Begg, but also by that of Ms. Wanamaker. Ms. Wanamaker gave evidence that she joined the Ministry of Public Safety and Solicitor General in 2010, more than a year after the decision to disband the unit was made and had no role in gaming prior to that time.[322] It does seem likely that Mr. Coleman would have met with Mr. Sturko at that time, given Mr. Sturko's role and Mr. Begg's evidence that members of the consultative board were responsible for briefing the ministers to whom they reported. While Mr. Sturko did not give detailed evidence about the events leading to the decision to disband the unit, he did testify that he supported the decision and recommended that the unit be disbanded.[323] He also said that he understood that "[t]he consultative board was not satisfied with what IIGET had accomplished or the level of staff turnover within IIGET."[324]

Accordingly, while Mr. Coleman may have been mistaken about who he met with in advance of the decision to disband the unit, I find his explanation for the decision to disband the unit credible and consistent with the evidence of other witnesses. Mr. Coleman likely was advised that the unit was ineffective, had difficulties with staffing, and had lost the support of the consultative board. While this may not have reflected Mr. Begg's views, it seems to be consistent with those of Mr. Sturko, who would have had primary responsibility for advising Mr. Coleman on such matters.

Impact of the Decision to Disband IIGET

As the dissolution of IIGET occurred relatively early in the growth of large and suspicious cash transactions and significant money laundering in several Lower Mainland casinos, it is logical to query whether this decision contributed to the proliferation of money laundering in these casinos in the years that followed and whether a different decision could have had a preventive effect. Some have gone so far as to query whether the decision to disband the unit amounted to a deliberate attempt by government to avoid law enforcement scrutiny of illegal activity in legal

320 Ibid, p 100.

321 Ibid, pp 104–6.

322 Evidence of L. Wanamaker, April 22, 2021, pp 2, 4–5.

323 Exhibit 507, Sturko #1, para 60–61; Evidence of D. Sturko, Transcript, January 28, 2021, pp 129–30.

324 Exhibit 507, Sturko #1, para 60–61; Evidence of D. Sturko, Transcript, January 28, 2021, pp 129–30.

gaming venues. I will begin by answering this latter question in the negative. I have been presented with no evidence to support this theory. On the contrary, the evidence before me supports a conclusion that the decision to disband the unit, while not uncontroversial (at the time and now), was motivated by concerns about the unit's performance. I accept that Mr. Coleman concluded that the unit should be disbanded because it was ineffective, a view shared by Mr. Sturko. Even Mr. Begg, who sought to save the unit, had concerns about its effectiveness.[325]

While Mr. Holland had begun an impressive reversal of the unit's ineffectiveness, Mr. Coleman's assessment of the unit's past performance was sound.

The question of whether the decision to disband the unit ultimately had an impact on the growth of money laundering in British Columbia casinos is more nuanced. While there may be reason to question whether the decision to disband the unit was the right one – and many of the witnesses who gave evidence on the subject did question that[326] – I see no basis to conclude that if the unit had continued as constituted it would have had any meaningful impact on money laundering in legal gaming venues. As discussed above, while the unit's formal mandate included illegal activity in legal venues, it is clear that this was not the unit's primary function, nor was it activity that the unit was targeting at the time. Throughout its entire existence, the only instance of the unit targeting potential illegal activity connected with suspicious cash in a legal casino was a single cash seizure carried out during Mr. Robertson's tenure as officer-in-charge of the unit. There were also legitimate concerns about the unit's vacancy rates, turnover, and historic ineffectiveness that cause me to further doubt that continuing the unit as it was would have had any meaningful impact on money laundering in legal casinos.

What is not so easy to dismiss as irrelevant to the growth of money laundering in legal casinos was failure on the part of the RCMP to respond to the mounting body of evidence raising concerns about "loan sharking" and money laundering in legal casinos. There were multiple sources who had identified high-level targets, including money laundering, in legal casinos, as an enforcement gap.

Mr. Pinnock and Mr. Holland both proposed an expansion of IIGET in order to play a larger role addressing high-level targets, including in legal venues – and there seems little doubt, based on the threat assessment prepared under Mr. Holland's direction, that there was a need for such a unit. It is not insignificant that two of the individuals appointed to lead this unit identified a need for greater law enforcement engagement on this issue. Alongside the 1998 proposal to establish an illegal gambling enforcement unit and Mr. Clapham's proposals to create a "casino crime" unit within the Richmond RCMP, the business cases prepared by Mr. Pinnock and Mr. Holland form a growing record that, even by 2008, there was a well-recognized need for greater law enforcement engagement

325 Evidence of K. Begg, Transcript, April 21, 2021, pp 50–51.

326 Evidence of F. Pinnock, Transcript, November 5, 2020, p 111; Evidence of W. Holland, Transcript, December 2, 2020, pp 158–64; Exhibit 181, Vander Graaf #1, para 100; Evidence of K. Begg, Transcript, April 21, 2021, p 48.

with the province's evolving gaming industry and raises important questions about why it would be many years before any action was taken to address this need.

One possible approach (though not the only one) to begin to fill this enforcement gap would have been to continue and expand the size and role of IIGET as proposed by Mr. Holland and Mr. Pinnock. Even at the increased strength proposed, the unit would not have been a complete, or perhaps even substantial, answer to the growing money laundering problem. However, if it was well managed (as it seems it was under Mr. Holland), and was operating in co-operation with GPEB, an expanded unit with an effective mandate that included high-level targets including money laundering in legal gaming venues held real potential to unearth additional evidence of what was occurring and disrupt at least some of that activity.

Regardless of the decision to disband IIGET, the failure on the part of the RCMP to pay heed to the mounting evidence of an enforcement vulnerability, which was not being addressed, and to take some steps to fill that enforcement gap did contribute to the growth of money laundering in the province's casinos. This failure perpetuated this enforcement gap and created an environment where such activity could continue to grow largely unchecked. As I discuss in Chapters 10, 11, and 39 the warnings that preceded the disbanding of IIGET were followed by many more, which similarly did not prompt any substantial law enforcement response for many years.

Mr. Pinnock's Interactions with Mr. Heed

In addition, and indirectly related, to his role with IIGET, Mr. Pinnock's evidence also addressed interactions he had with former Minister of Public Safety and Solicitor General Kash Heed in 2009, after the conclusion of his tenure with IIGET. In the fall of that year, Mr. Pinnock gave an interview to a reporter during which he related his concerns about what was happening in the casinos. A short time later, Mr. Pinnock saw public comments by Mr. Heed, in which Mr. Heed expressed "displeasure" with Mr. Pinnock's interview.

Mr. Pinnock and Mr. Heed had a long-standing personal relationship and, in early November 2009, following Mr. Pinnock's interview and Mr. Heed's public comments, the two men met for lunch and discussed Mr. Heed's comments. Mr. Pinnock could not recall how this meeting was arranged[327] while Mr. Heed recalled that it was suggested by a caucus mate who was then in a relationship with, and is now married to, Mr. Pinnock.[328] Neither Mr. Pinnock nor Mr. Heed recorded or took notes of the discussion at the time that it took place. During his testimony, however, Mr. Pinnock referred to a "will-say" that he prepared, according to him, initially in 2019.[329] This initial version of the "will-say" was the first time that Mr. Pinnock made any record

327 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 119–20.

328 Evidence of K. Heed, Transcript, April 30, 2021, pp 34–35.

329 Evidence of F. Pinnock, Transcript, November 17, 2020, pp 16–17.

of his 2009 conversation with Mr. Heed.[330] Mr. Pinnock provided this document to the Commission.[331] He revised the "will-say" in October 2019, June 2020, and August 2020, and also provided these revised versions to the Commission.[332] The "will-say" and the subsequent revisions to that document were prepared by Mr. Pinnock at his own instigation and not at the request of Commission counsel.[333]

Mr. Pinnock testified that, in the November 2009 meeting, he told Mr. Heed that he was "convinced that Rich Coleman knows what's going on inside those casinos." According to Mr. Pinnock, Mr. Heed confirmed this assertion. Mr. Pinnock said that Mr. Heed indicated that he felt that "Rich Coleman had created this and it received the sort of tacit support of senior Mounties in this province."[334]

Mr. Pinnock testified that he believed that Mr. Heed understood there to be an issue of organized crime and cash in casinos. He told me that he recalled Mr. Heed stating, "[I]t's all about the money."[335]

Mr. Pinnock said that Mr. Heed did not tell him why he believed Mr. Coleman knew what "was going on inside those casinos."[336]

With respect to the "senior Mounties" supposedly referred to by Mr. Heed, Mr. Pinnock testified that Mr. Heed referenced "three or four officers" but "didn't get into details" about their involvement or the relevance they had to the issues they were talking about.[337]

Mr. Pinnock testified that this was the extent of Mr. Heed's reference to senior police involvement. The context, according to Mr. Pinnock, was that "it was a game being played by senior police officers, who were … 'puppets for Coleman.'"[338]

Mr. Pinnock's knowledge about what was going on in the casinos, apart from media reports, was based on "anecdotal references to former police officers working in the casino environment… who had statements attributed to them along the lines of, 'I really wish I hadn't seen that,' referring to some form of criminal activity within the casinos."[339] Mr. Pinnock did not speak to the former officers himself but said that "statements were attributed to them by friends of mine."[340]

330 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 121–22 and Transcript, November 17, 2020, p 18.

331 Evidence of F. Pinnock, Transcript, November 5, 2020, p 120.

332 Ibid, pp 120–21.

333 Ibid, pp 120–21; Evidence of F. Pinnock, Transcript, November 17, 2020, p 17.

334 Evidence of F. Pinnock, Transcript, November 5, 2020, p 122.

335 Ibid, p 123.

336 Ibid, p 124.

337 Ibid, pp 125–26.

338 Ibid, p 126.

339 Ibid, pp 127–28.

340 Ibid, p 128.

As I will discuss further below, Mr. Pinnock and Mr. Heed had discussions in 2018 during which they discussed the issue of cash and casinos. Mr. Pinnock was asked at the close of Commission counsel's examination of him:[341]

> Subsequent to 2009 [until those 2018 conversations] during the time [Mr. Heed] was still in government, did you have any further conversations with Minister Heed about the issues of organized crime or cash in British Columbia casinos?[342]

Mr. Pinnock responded: "No, I don't believe so."[343] During his examination by counsel for Canada, Mr. Pinnock explained that his recollection of the conversation he had with Mr. Heed in 2009 led him to surreptitiously audio record three conversations he had with Mr. Heed in 2018, because he wanted to "secure and preserve" the evidence.[344] These audio-recorded conversations took place on July 10, September 7, and December 31, 2018. The contents of these recordings are discussed below.

Mr. Pinnock agreed with the suggestion made to him by counsel for GPEB that, from the time he left the RCMP in December 2007 forward, his "knowledge [about matters related to suspicious cash in casinos] is based on what [he] heard or had been told by others or what [he has] gleaned from [the media]."[345]

Mr. Heed applied for and was granted limited participant status in the Commission's proceedings on November 12, 2020, to enable him to examine Mr. Pinnock on his evidence related to his discussions with Mr. Heed. Mr. Pinnock was recalled as a witness for this purpose on November 17, 2020.

In the course of his testimony, Mr. Pinnock was asked by Mr. Heed's counsel about the following passage found in one of the versions of his "will-say":[346]

> In November 2009 Kash Heed and I met to discuss what had been said in his interview and his and my interviews. He said "of course you're right, Freddy, but I can't say that publicly." When I, Pinnock, said that I was totally convinced that Rich Coleman knows all about the organized crime going on in our casinos, Mr. Heed said, "There's no doubt about it, but it's all about the money. You know that. What's the BCLC generating in casinos, 2 billion a year? Wayne Holland says Fred was right."

In his evidence in response to questions from Commission counsel on November 5, 2020, Mr. Pinnock testified that he did not take any notes of the 2009 conversation with Mr. Heed until he "paraphrased" it in the "will-say" he prepared to provide to the

341 Ibid, p 128.

342 Ibid.

343 Ibid.

344 Ibid, p 133; Evidence of F. Pinnock, Transcript, November 6, 2020, p 18.

345 Evidence of F. Pinnock, Transcript, November 6, 2020, p 15.

346 Evidence of F. Pinnock, Transcript, November 17, 2020, pp 20–21.

Commission. During his examination by Commission counsel, Mr. Pinnock confirmed that his "will-say" "was the first time he wrote down what [he] recalled occurring in that conversation."[347]

As the first iteration of Mr. Pinnock's "will-say" was not drafted until 2019, it is clear that he did not commit himself in writing to describing the content of the 2009 conversation with Mr. Heed until after he had acquired recorded conversations between Mr. Heed and himself on July 10, September 7, and December 31, 2018.

In his examination by Mr. Heed's lawyer, Mr. Pinnock testified further about his "will-say." He confirmed it contained a summary of the conversation he had with Mr. Heed nine or ten years earlier, describing the summary as "a very close version" of the conversation that he remembered because he was "absolutely gobsmacked" by what Mr. Heed told him that day.[348] He agreed, however, that his summary did not include a reference to the three or four senior RCMP officers who he claimed Mr. Heed characterized as "puppets for Coleman" in the November 2009 conversation. He explained that "it was nine years earlier, and I forgot to include it."[349]

When challenged as to whether Mr. Heed said those words, Mr. Pinnock said, "[Y]es, I believe he did."[350] When asked what the basis of his belief was, he responded:[351]

> Because over the course of the period 2009 to 2013, I probably interacted with Kash on eight or ten occasions, most of them in a social environment, and it was almost like a broken record, the reference to Rich Coleman's willful blindness and the manipulation of senior police officers in BC. So that's my best answer.

Mr. Pinnock described his failure to include reference to the senior officers being "puppets for Coleman" as "a drafting error."[352] He explained, "I knew when I hit the record button during our first recorded conversation in 2018 I knew what he was going to say. He had said it so often to me."[353]

Mr. Pinnock originally estimated there were seven occasions within the eight or nine interactions he had with Mr. Heed when Mr. Heed made those or similar comments about the senior Mounties. He then changed his estimate to six times out of the eight to 10 interactions and he characterized the recorded conversation of July 10, 2018, as confirmatory of what Mr. Heed said to him in 2009: "If they contained elements of his earlier disclosure to me … it contained elements of what he had said before."[354]

347 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 119–20.
348 Evidence of F. Pinnock, Transcript, November 17, 2020, pp 18–20.
349 Ibid, pp 21–22.
350 Ibid, p 22.
351 Ibid, p 22.
352 Ibid, pp 23–24.
353 Ibid, p 23.
354 Ibid, pp 23–24.

Mr. Pinnock agreed that, although he made amendments to his will-say on three occasions, he never "caught the absence" of a reference to the three or four senior officers whom he later testified that Mr. Heed described as "puppets for Coleman."[355]

Mr. Heed's lawyer asked Mr. Pinnock if he was asked by Commission counsel whether subsequent to 2009, while Mr. Heed was still in office, he had "any further conversations with Minister Heed about the issues of organized crime or cash in British Columbia casinos," and whether he responded "no I don't believe so."[356] Mr. Pinnock, who had, in fact, been asked that question and given that answer,[357] responded:[358]

> I'm disappointed in myself for saying that. I guess I didn't understand the question or my stress level was so high I was not grasping the spirit of the question. Of course I had numerous conversations with Kash Heed between 2009 and 2013 before he left government about this very matter.

Kash Heed's Evidence

Mr. Heed served as a police officer with the Vancouver Police Department from 1979 until 2007, when, having reached the rank of Superintendent, he was appointed Chief Constable for the West Vancouver Police Department. He remained in that role until 2009, when he successfully ran in the Vancouver-Fraserview riding for the BC Liberal Party seeking a seat in the Legislative Assembly. Following his election, he was appointed minister of public safety and solicitor general in May 2009 and served in that role until April 2010.[359]

Mr. Heed testified that the topic of money laundering was never brought to his attention in any formal document or formal briefing or even discussion among government ministers during his time in cabinet.[360] He also recalled nothing coming up with respect to money laundering in casinos while he was minister of public safety and solicitor general. He was not aware of it "as an emerging problem."[361] He similarly recalled no discussion of the topic in the years after he left cabinet, but remained an MLA.[362] Despite this evidence, I note that, as discussed below, Mr. Heed did refer in his evidence to a small number of conversations with his fellow cabinet and caucus members on related issues.

Mr. Heed denied speaking to Mr. Coleman about gaming while Mr. Heed was the solicitor general.[363] He testified that he remembered gaming issues coming up in caucus

355 Ibid, pp 24–25.
356 Ibid, pp 34–35.
357 Evidence of F. Pinnock, Transcript, November 5, 2020, p 128
358 Evidence of F. Pinnock, Transcript, November 17, 2020, p 35.
359 Evidence of K. Heed, Transcript, April 30, 2021, pp 2–3, 20–21.
360 Ibid, p 27.
361 Ibid, p 30.
362 Ibid.
363 Ibid, p 38.

meetings. Mr. Heed recalled Mr. Pinnock's partner raising the issue and Mr. Coleman "rightfully," according to Mr. Heed, responding that it was not the time or place to discuss it. [364]

Mr. Heed denied knowing of any government officials who turned a blind eye to money laundering activity. He did not run for re-election in the 2013 election. Instead, he started a consulting business and also conducted a radio talk show and did some teaching on the subject of criminology and criminal justice.[365]

Prior to his meeting with Mr. Pinnock in 2009, Mr. Heed recalled being "scrummed" in the Legislature in November 2009. He was asked a question by a reporter about money laundering in casinos. It "[came] out of the blue."[366] He described himself as responding in a way that was "a little curt."[367] He said it was not an issue that he was familiar with. He said to the reporter that people are entitled to their opinions but "there's a different set of facts."[368] He recalled the reporter mentioning the acronym IIGET and he later learned that it was no longer in existence. He did not at the time know what IIGET was, nor what GPEB was.[369]

Mr. Heed said that he sat next to Mr. Pinnock's partner at caucus meetings. According to Mr. Heed, it was she who suggested he have lunch with Mr. Pinnock. He agreed and they had lunch a day or a few days later. Mr. Heed described his relationship with Mr. Pinnock over the years, explaining that they had initially met in 1983 or 1984 when both were young police officers. They became friends but never worked together.[370]

Mr. Heed recalled meeting with Mr. Pinnock in Victoria in November 2009 for lunch. The lunch only lasted about 40 minutes. Most of it was catching up, talking about personal issues and common friends in policing. Near the end of the lunch, according to Mr. Heed, Mr. Pinnock said he wanted to fill him in on a few things related to gaming because he thought Mr. Heed had been dismissive and negative about him to the reporter.[371] Mr. Heed described Mr. Pinnock's tone as really changing and he, Mr. Heed, got "a little bit defensive."[372] He said Mr. Pinnock talked for about five minutes about being badly treated by the RCMP while he was at IIGET.[373]

According to Mr. Heed, Mr. Pinnock talked about how positions at IIGET were not filled (at IIGET) and about to whom he reported. Mr. Heed said the lunch

364 Ibid, p 41.
365 Ibid, pp 44–45.
366 Ibid, p 32.
367 Ibid.
368 Ibid.
369 Ibid, pp 32–33.
370 Ibid, pp 34–35, 46–47.
371 Ibid, pp 47–48.
372 Ibid, p 48.
373 Ibid, p 49.

ended with him saying that he would look into Mr. Pinnock's concerns and see if he could do anything about them, but he advised Mr. Pinnock that gaming was not in his ministry.[374] Mr. Heed denied saying anything about members of government knowing what was going on in casinos and turning a blind eye to it. He denied commenting about the police failing to deal with money laundering in the casinos. He denied saying that Mr. Coleman knew what was going on inside the casinos. He denied saying "it's all about the money."[375] He denied saying Mr. Coleman was largely responsible and that senior Mounties were complicit. He denied that he said that Mr. Coleman created the situation and had the tacit support of senior Mounties. He denied saying anything about organized crime and cash in casinos. He denied saying anything about senior police officers "being puppets for Coleman" – in 2009.[376]

After his meeting with Mr. Pinnock, Mr. Heed contacted Gary Bass and Al Macintyre, command staff at RCMP "E" Division, in late 2009 or early 2010. He had several meetings with command staff, mostly Macintyre and Bass. They did discuss proceeds of crime and loan sharking in and around casinos. He "was never told that it was a priority for them to deal [with those particular issues]." He was told they lacked the resources to deal with the issue.[377] Mr. Heed also had a brief discussion with Attorney General Michael de Jong about gaming. It was not expressed to Mr. Heed that cash in casinos was a priority issue. Mr. Heed never had a conversation with any other cabinet colleagues, including the premier, about that issue.[378]

Mr. Heed was unaware of money laundering in casinos at that time and no one brought it to his attention. He was asked if he had any meetings or discussions with Mr. Pinnock between 2009 and 2018. He recalled when he was teaching, he had Mr. Pinnock and his partner attend his class circa 2013 and Mr. Pinnock gave a lecture on undercover operations. He recalled another time circa February 2010 while he was still in the role of solicitor general, that he and his wife had dinner in Vancouver with Mr. Pinnock and his partner. They did not discuss anything related to "what we're discussing here." [379]

Mr. Heed became aware that Mr. Pinnock had secretly recorded his conversations with Mr. Heed in 2018, the day before Mr. Heed was first interviewed by Commission counsel in January 2020.[380] Mr. Heed and Mr. Pinnock met for coffee in Kerrisdale and Mr. Pinnock told him that he was going to provide the recordings to Commission counsel. Mr. Heed regarded Mr. Pinnock's conduct as "absolutely a breach of … trust."[381]

374 Ibid, pp 49–50.
375 Ibid, pp 53–54.
376 Ibid, pp 54–55.
377 Ibid, p 43.
378 Ibid, pp 38–40.
379 Ibid, pp 56–58.
380 Ibid, pp 58–59.
381 Ibid, p 59.

The three recorded conversations took place on July 10, 2018,[382] September 7, 2018,[383] and December 31, 2018.[384] Mr. Heed described the conversations with Mr. Pinnock as "personal opinions" he expressed while "shooting the breeze."[385]

He denied that what he said in the recorded conversations in 2018 mirrored anything he said to Mr. Pinnock in 2009. He testified that the July 2018 conversation referred to a discussion he had with Attorney General David Eby, "based on two areas of concern" about who was conducting a gaming review and the fact that Ross Alderson, "the whistleblower was most likely going to be terminated by the BC Lottery Corporation."[386]

The December 31, 2018, conversation took place because the *W5* television program was doing something related to money laundering issues and the executive producer was looking to speak to someone in British Columbia apart from Mr. Alderson.[387]

Mr. Heed testified he thought of Mr. Pinnock and phoned him to see if he would take the opportunity. When he realized that Mr. Pinnock was not interested, he disengaged.[388] In response to questions from his own counsel, Mr. Heed agreed that as part of his speech pattern he would say "yeah" or "yeah, yeah," not to confirm the correctness of what a person who was talking to him was saying, but rather to move the conversation forward.[389]

The Surreptitious Recordings of Mr. Heed's Conversations with Mr. Pinnock

As I earlier noted, Mr. Pinnock had three conversations with Mr. Heed, which he surreptitiously recorded. The first recorded conversation was on July 10, 2018, in a telephone call initiated by Mr. Pinnock to Mr. Heed. The transcript of the July 10, 2018, recorded conversation was 24 pages long.[390]

The second recorded conversation was on September 7, 2018, at the Cactus Club restaurant located in Richmond Centre in Richmond which, according to Mr. Pinnock, commenced sometime after 11:25 a.m., lasting until 1:06 p.m. The transcript was 87 pages long.[391]

382 Exhibit 163, Transcript of a phone call between Mr. Heed and Mr. Pinnock on July 10, 2018 (July 10, 2018 Recording).

383 Exhibit 164, Redacted transcript of a lunch meeting between Mr. Heed and Mr. Pinnock on September 7, 2018 (September 7, 2018 Recording).

384 Exhibit 269, Transcript of phone call between Heed and Pinnock on December 31, 2018 (December 31, 2018 Recording).

385 Evidence of K. Heed, Transcript, April 30, 2021, pp 62–63.

386 Ibid, pp 66–67.

387 Ibid, p 67.

388 Ibid, pp 67–68.

389 Ibid, p 79.

390 Exhibit 163, July 10, 2018 Recording.

391 Exhibit 164, September 7, 2018 Recording.

The third recorded conversation took place, according to Mr. Pinnock, on December 31, 2018, "just before noon" and ended at 12:17 p.m. The transcript was 18 pages long. It was a telephone call from Mr. Heed to Mr. Pinnock.[392]

In the July 10, 2018, recording, after Mr. Heed greeted Mr. Pinnock, Mr. Pinnock said: "Kash, it's been about eight years too late for me to call you to say hi. How are you brother?"[393]

Mr. Heed responded by telling Mr. Pinnock not to "worry about that … It doesn't matter how many years go by."[394] After that Mr. Pinnock asked if Mr. Heed was "was still teaching?"[395] The conversation between the two men then covered what the two of them were doing occupationally and personally, including speaking about what Mr. Pinnock's partner had been doing.

Mr. Heed then raised the issue of money laundering, noting that he himself had been commenting on it "overtly and covertly" and that Mr. Pinnock "finally … did come out, and … said exactly what is going on."[396] He then told Mr. Pinnock that he called the attorney general when he hired Peter German "to do his thing" telling the attorney general that Dr. German "was the assistant commissioner of the [Lower Mainland Division] when the decision was made, and he was part of that decision-making. It was [Dr. German and others] that were part of the decision-making, were puppets for Coleman, to pull IIGET."[397]

There is a clear conflict in the evidence between Mr. Pinnock and Mr. Heed concerning the context and content of their interaction with each other in November 2009. According to Mr. Pinnock, what Mr. Heed said to him in 2009 was confirmed by Mr. Heed in the three conversations which Mr. Pinnock recorded in 2018, and in six or seven unrecorded interactions between 2009 and 2013.

According to Mr. Heed, neither he nor Mr. Pinnock spoke about Rich Coleman, the four senior members who were "puppets for Coleman" and the presence of organized crime and cash in casinos in 2009. He denied telling Mr. Pinnock that it was "all about the money" in 2009 or that he told Mr. Pinnock that Mr. Coleman created the problem "with the tacit support of senior Mounties" at the 2009 lunch meeting. He also denied seeing Mr. Pinnock again after the meeting with him, except on two occasions, once in February 2010 when he and his wife had dinner with Mr. Pinnock and his partner and again around 2013 when Mr. Pinnock came to one of Mr. Heed's criminology classes to give his class a lecture.

According to Mr. Heed, on neither of those two occasions did he and Mr. Pinnock discuss the issue of money laundering in casinos. He agreed with a suggestion put to

392 Exhibit 269, December 31, 2018 Recording.

393 Exhibit 163, July 10, 2018 Recording, p 1.

394 Ibid.

395 Ibid.

396 Ibid, pp 5–6.

397 Ibid, p 6.

him by BCLC's lawyer that in his recorded conversations with Mr. Pinnock, some of his statements "were based on speculation and maybe hyperbole."[398]

Mr. Pinnock's account of what unfolded at their meeting in early November 2009 and Mr. Heed's version of what took place in that meeting are at odds. After carefully considering their respective testimony, the recordings made of their 2018 conversations, and their counsels' respective submissions, I find Mr. Heed's version of what transpired between them in November 2009 to be more believable than Mr. Pinnock's account.

Before turning to my reasons for finding Mr. Heed's account to be more believable, I consider it important to review the basis on which and the sequence in which the three transcripts of the 2018 recordings were admitted into evidence. Mr. Pinnock's first reference during his evidence to his 2018 conversations with Mr. Heed, and his recording of them was in his evidence on November 5, 2020.

In response to a question by Commission counsel about "a lack of response to the developing issue of organized crime in British Columbia casinos."[399] Mr. Pinnock referenced a telephone conversation with Mr. Heed in 2018 "where we both went into greater detail about that and … his belief in terms of what has led to the current circumstances in casinos and racetracks."[400]

Counsel for Canada, in their examination of Mr. Pinnock, suggested that "all [he has] on this conversation with Minister Heed in 2009 is a recollection of a conversation where these allegations may have been made."[401] Mr. Pinnock responded:[402]

> Yes. But I do remember having that conversation, and this – this led to my decision to audio record my conversation with Kash Heed on the 10th of July 2018. I wanted him to repeat to me the essence of what he told me in 2009. I wanted to secure and preserve that evidence. That's what I did.

Later, during an examination by counsel for BCLC, Mr. Pinnock was asked about his decision to tape record the July 10, 2018, telephone conversation and a conversation he had with Mr. Heed over lunch in early September 2018. Mr. Pinnock responded, "That's right. And there was a subsequent recorded phone call on the 31st of December, but there was nothing said that would be of assistance to the commission."[403]

As of that date (November 5, 2020), Mr. Pinnock had not disclosed the recording of the December 31, 2018, phone call to the Commission. Mr. Pinnock subsequently produced a recording of that telephone call to Commission counsel and redacted versions of the three recordings were ultimately marked as exhibits.[404]

398 Ibid, p 68.

399 Evidence of F. Pinnock, Transcript, November 5, 2020, p 123.

400 Ibid.

401 Ibid, p 133.

402 Ibid.

403 Ibid, p 141.

404 Exhibit 163, July 10, 2018 Recording; Exhibit 164, September 7, 2018 Recording; Exhibit 269, December 31, 2018 Recording. See Ruling 18, Ruling on Admissibility of Transcripts.

As I noted in Ruling 18 (regarding the admissibility of the transcripts), the issue that confronts me is "whether the 2009 conversation took place as Mr. Pinnock said it did or not" and "the transcripts are relevant and probative insofar as they assist in making a determination" on that issue. Whether the 2009 conversation took place as Mr. Pinnock said it did or not.[405]

When Mr. Pinnock called Mr. Heed on July 10, 2018, he greeted him by saying "Kash, it's been about eight years too late for me to call you to say hi. How are you brother?"[406] When Mr. Heed responded, "Oh, no, don't worry about that. Once a friend, always a friend. It doesn't matter how many years go by," Mr. Pinnock then responded with, "Good for you. I feel the same. So how's life with you? Are you still teaching?"[407]

Taken in context, Mr. Pinnock's comments appear more consistent with Mr. Heed's version of what unfolded after their meeting in November 2009 than with Mr. Pinnock's. According to Mr. Pinnock's version, he saw Mr. Heed approximately eight or ten times, most of them in a social setting between November 2009 and 2013 while Mr. Heed was still in government.[408] That was part of Mr. Pinnock's explanation for how he was able to recall the November 2009 conversation with Mr. Heed so well despite not making any notes, because Mr. Heed continually repeated himself about what they spoke of in November 2009, six or seven times in all.[409]

Mr. Pinnock's comment to Mr. Heed during the July 10 recorded call, however, suggests that it had been eight years since he had seen him, not that he had seen him around 10 times at least until 2013. Further, Mr. Pinnock's question whether Mr. Heed was "still teaching" appears consistent with Mr. Heed's evidence that Mr. Pinnock came to his class to give a lecture and is not consistent with Mr. Pinnock's evidence that when he saw Mr. Heed eight or ten times between 2009 and 2013, it was mainly on social occasions.

There is other evidence given by Mr. Pinnock that casts doubt on his explanation for being able to remember the details of the 2009 conversation with Mr. Heed (because he consistently repeated himself between 2009 and 2013). As earlier noted, when Mr. Pinnock was asked by Commission counsel on November 5, 2020, "[S]ubsequent to 2009 during the period he was still in government, did you have any further conversations with Minister Heed about the issues of organized crime or cash in British Columbia casinos?" he responded, "No, I don't believe so."[410]

It is notable that Mr. Pinnock's first reference to these subsequent meetings where he says Mr. Heed referred to Mr. Coleman and the senior police officers being his puppets was during his examination by counsel for Mr. Heed about his failure to reference the four senior police officers being "puppets for Coleman," in his "will-say" statement that

405 Ruling 18, Ruling on Admissibility of Transcripts, para 53.

406 Exhibit 163, July 10, 2018 Recording, p 1.

407 Ibid.

408 Evidence of F. Pinnock, Transcript, November 17, 2022, p 22.

409 Ibid, pp 23–24.

410 Evidence of F. Pinnock, Transcript, November 5, 2020, p 128.

he prepared in 2019.[411] Mr. Pinnock gave as an explanation for that failure that "[i]t was nine years earlier, and [he] forgot to include it."[412] When it was suggested to Mr. Pinnock that Mr. Heed "didn't say those words to [him] in 2009." He responded, "Yes, I believe he did."[413] It was then he first referred to the eight or 10 interactions with Mr. Heed between 2009 and 2013. Mr. Pinnock described Mr. Heed as being "like a broken record" he "knew when [he] hit the record button during [their] first recorded conversation in 2018 [he] knew what he was going to say."[414]

He was asked if the three 2018 recordings "include Kash Heed confirming everything he said to you in 2009 and then some[?]" he responded, "Particularly I think in the July 10, 2018, recorded conversation, yes."[415]

A significant focus of Mr. Heed's comments in the July 10, 2018, recording of his conversation with Mr. Pinnock was his discussion with Attorney General David Eby:

> I said, Peter German was the assistant commissioner of [Lower Mainland Division] when the decision was made, and he was part of that decision-making. It was [Dr. German and others] that were part of the decision-making, were puppets for Coleman, to pull IIGET.[416]

According to Mr. Heed in the recorded conversation he said to Mr. Eby: "Now, you're bringing one of the decision makers back to review it. I said, how hypocritical is that, David?"[417]

It is significant that, despite Mr. Heed's emphasis to Mr. Pinnock about Dr. German being one of the four senior officers who were "puppets for Coleman" in the July 10, 2018, recording, the one name that Mr. Pinnock failed to mention at any time in his evidence before the Commission is Dr. German's. While one can speculate why that is so, speculation is not an appropriate basis for resolving a conflict in the evidence. It is sufficient to say that Mr. Pinnock's evidence about his recollection of who Mr. Heed named as being "puppets for Coleman" appears to have been selected and presented artfully, rather than forthrightly.

In my view, that is characteristic of Mr. Pinnock's evidence. His invocation of seeing Mr. Heed eight or ten times while Mr. Heed was still in government and Mr. Heed consistently repeating his allegations about Mr. Coleman, the four senior Mounties who were "puppets for Coleman," and others in government who were willfully blind to what was afoot in casinos, as a reason why he was able to remember the November 2009 conversation nine years after it happened has the air of a contrivance. It is particularly

411 Evidence of F. Pinnock, Transcript, November 17, 2020, pp 21–22.
412 Ibid, p 21.
413 Ibid, p 22.
414 Ibid, p 23.
415 Ibid, p 24.
416 Exhibit 163, July 10, 2018 Recording, p 6.
417 Ibid, p 7.

so in the face of his denial to Commission counsel that he spoke to Mr. Heed about "organized crime or cash in casinos" while Mr. Heed was still in government between 2009 and 2013.

Mr. Pinnock's assertion that, in 2009 Mr. Heed told him, in effect, the reason that there was no action taken against those involved in money laundering through casinos was because "it's all about the money" seems to have been taken from what Mr. Heed said in 2018 in the December 31 recorded conversation. It seems likely that Mr. Pinnock simply poached these words from the recording he had recently made of Mr. Heed saying those words.

I conclude that Mr. Pinnock's initial account of his conversation with Mr. Heed reflected in his "will-say" was primarily based on his later recorded conversations with Mr. Heed in 2018. I accept Mr. Heed's evidence that he had little or no knowledge of what was going on in the casinos in 2009. I find that Mr. Heed was prone to hyperbole in his later recorded conversations with Mr. Pinnock, and I do not find in those recordings confirmation of Mr. Pinnock's account of what transpired between the two men in their 2009 conversation. Although in the December 31, 2018, recording, Mr. Heed appeared to confirm Mr. Pinnock's account of what Mr. Heed said to him in 2009, I accept that it is more likely, in the circumstances, that he was simply moving the conversation onward rather than verifying specific words used nine years earlier in a discussion between them.

As I see it, both Mr. Pinnock in his testimony before the Commission and Mr. Heed in his recorded assertions to Mr. Pinnock have wrongly alleged that Mr. Coleman and senior members of the RCMP were complicit in the growth of money laundering and organized crime in the gaming industry.[418] Mr. Heed characterized his recorded assertions to Mr. Pinnock, during his testimony before the Commission, as "personal opinions well after the fact … not based on any first-hand knowledge or experience from my time in policing or in government."[419] He described his comments as "strictly stuff that I had heard, you know, through mostly media sources."[420] In other words, Mr. Heed essentially disavowed his comments concerning Mr. Coleman and the senior officers as being a product of third-hand information. He did not present them as reliable.

Mr. Pinnock, on the other hand, maintained his allegations against Mr. Coleman, and the senior RCMP officers, based largely on Mr. Heed's disavowed recorded comments to him and on Mr. Heed's disputed comments to him while he was solicitor general in 2009. I do not find Mr. Pinnock's evidence to be reliable or credible insofar as his allegations against Mr. Coleman or the four senior RCMP officers are concerned.

418 Whether the actions of the RCMP and Mr. Coleman (and others) may have nevertheless contributed to money laundering in the gaming industry is addressed in Chapter 14.

419 Evidence of K. Heed, Transcript, April 30, 2021, p 65.

420 Ibid.

Chapter 10
Gaming Narrative: 2004–2015

The enactment of the *Gaming Control Act*, SBC 2002, c 14, in 2002 came just before a time of significant and rapid change in the province's gaming industry. The years that followed would see a string of new, larger, and more sophisticated casinos open throughout the Lower Mainland, beginning with the River Rock Casino Resort in Richmond in 2004. As these new casinos opened, the industry began to turn its focus toward a new group of high-value VIP patrons who were willing and able to gamble substantial quantities of money. The industry developed new VIP spaces and services to accommodate these patrons' tastes and increased betting limits to enable play at higher levels.

As the gaming industry functioned exclusively in cash until 2009, and remained predominantly cash-based following that time, the increased business enabled by higher betting limits and encouraged by efforts to cater to VIP patrons was conducted primarily in cash. In or around 2008 and 2009, investigative staff within both the Gaming Policy and Enforcement Branch (GPEB) and the British Columbia Lottery Corporation (BCLC) developed concerns, based on the size and other features of increasingly large cash transactions observed in casinos, that British Columbia's gaming industry had begun to accept significant quantities of cash generated through illicit activity and that these transactions were connected to money laundering.

The size and frequency of these transactions grew in the years that followed and continued to attract the attention and concern of some within the industry. The GPEB investigation division, in particular, repeatedly identified the risk of money laundering associated with these transactions internally within GPEB as well as externally to BCLC, law enforcement, and government. While these actors took some limited action aimed at reducing the gaming industry's reliance on cash and risk of money laundering during this

time period, casinos in the Lower Mainland continued, almost without exception, to accept cash transactions regardless of their size or the presence of characteristics suggesting that the funds used in those transactions were the proceeds of crime. As they did so, the industry continued to fuel the growth of large cash transactions by further increasing betting limits and investing in efforts to attract VIP patrons to British Columbia's casinos. In this context, the size and frequency of suspicious cash transactions continued to grow such that, by 2014, BCLC was reporting to the Financial Transactions Report Analysis Centre of Canada (FINTRAC) an average of more than $500,000 in suspicious transactions per day.

In this chapter, I describe the growth and evolution of the province's gaming industry following the enactment of the *Gaming Control Act* in 2002 and the rise of large and suspicious cash transactions in British Columbia's casinos to their peak in 2014 and 2015. I begin with a discussion of changes observed in the gaming industry as new casinos opened across the Lower Mainland between 2004 and 2008. I then turn to the initial rise of suspicious cash in the province's casinos beginning in 2008, their acceleration in the years that followed, and the actions taken in the industry that fuelled their growth. I consider how various actors and stakeholders connected to the industry responded to the growth of large and suspicious cash transactions, focusing first on the response observed between 2008 and 2013 and then addressing actions taken in 2014 and early 2015. Chapter 11 continues this narrative beginning with a series of significant events that took place during the summer of 2015.

2004–2008: Development of Gaming Industry Following Enactment of the *Gaming Control Act*

The enactment of the *Gaming Control Act* in 2002 preceded significant changes in British Columbia's gaming industry. In the years that followed its enactment, new gaming facilities were constructed throughout the Lower Mainland and a new focus on high-limit VIP play began to emerge. As this evolution took place, BCLC recognized that the security needs of the industry were also changing and made investments and policy and organizational changes to better meet these needs. Despite these security enhancements, there were signs at this time that these new facilities had begun to attract the interest of a criminal element, foreshadowing how the industry's development had set the stage for the rapid growth of suspicious cash in the province's casinos that would begin in earnest in or around 2008.

Development of New Gaming Facilities

The first of the new gaming facilities developed in the Lower Mainland was the River Rock Casino Resort, which opened in Richmond in 2004. The River Rock was soon followed by other facilities in nearby municipalities, including the Edgewater Casino in Vancouver and the Cascades Casino in Langley, both of which opened in 2006, the Starlight Casino in New Westminster in 2007, and the Grand Villa Casino in Burnaby in 2008.[1] It is clear that the evolution of British Columbia's new regulatory

1 Exhibit 559, Affidavit #1 of Walter Soo, made on February 1, 2021 [Soo #1], paras 34, 50–54.

environment, beginning with the entry of BCLC into casino gaming in 1998, had created an opportunity to exploit what those engaged in the industry believed to be significant untapped potential in the province's gaming market, justifying substantial investments in the development of new facilities.

A number of these municipalities, including Richmond, Vancouver, Burnaby, and New Westminster, housed casinos prior to the development of these new facilities. As such, casino-style gaming was not new to these cities. However, the new casinos represented a significant change in both the nature and scale of gaming in the Lower Mainland. The evidence of Rick Duff, whose tenure with Great Canadian Gaming Corporation (GCGC) spanned this evolution of the industry and who served as the River Rock Casino's first assistant general manager when it opened in 2004, offered some insight into the nature and scale of the changes observed in the industry at this time. Mr. Duff described the change from the old Richmond Casino to the River Rock:[2]

> We went from having 30 gaming tables at the old Richmond Casino and no slot machines to, I believe, 70 gaming tables and a thousand slot machines. We went from having a cafeteria style snack bar to having three or four different restaurant options. We went from having no alcohol to having alcohol in the casino with a lounge and things like that. So, we basically went from a card room to … a casino.

Mr. Duff went on in his evidence to explain that, in addition to these physical changes, the development of the River Rock also introduced a new clientele to the casino:[3]

> [T]he old players certainly did come over to River Rock, but we cultivated and brought in a lot of other players, and it was just by name. At that point River Rock was the largest casino in the Lower Mainland, and the particular games that we were having is some of the games that they would like to play. Games – not just baccarat, but, like, craps. We were one of the first casinos to have a craps table in the province.

Mr. Duff's comments speak to his experience at the River Rock and provide some insight into the magnitude of the changes that took place in the gaming industry at this time.

Impact on BCLC and Casino Revenue

The changes that took place in the province's gaming industry at this time are also evident in the financial data contained in BCLC's annual reports. Table 10.1 sets out BCLC's annual total revenue, net income, and casino revenue as identified in its 2000–01 to 2009–10 annual reports:[4]

2 Evidence of R. Duff, Transcript, January 25, 2021, pp 19–20.

3 Evidence of R. Duff, Transcript, January 25, 2021, p 20.

4 Exhibit 72, Overview Report: British Columbia Lottery Corporation Annual Reports; Total revenue and net income rounded to nearest thousand dollars.

Table 10.1: BCLC annual revenue, 2000–2010

Year	Total Revenue	Net Income	Casino Revenue
2000–01	$1,483,041,000	$562,000,000	$492,277,734
2001–02	$1,607,418,000	$606,068,000	$552,385,682
2002–03	$1,792,411,000	$670,937,000	$628,123,546
2003–04	$1,889,637,000	$727,643,000	$733,485,672
2004–05	$2,027,317,000	$818,876,000	$892,879,909
2005–06	$2,260,706,000	$922,967,000	$1,085,345,811
2006–07	$2,425,208,000	$1,018,798,000	$1,208,891,368
2007–08	$2,559,187,000	$1,088,893,000	$1,322,123,327
2008–09	$2,550,200,000	$1,090,700,000	$1,341,239,607
2009–10	$2,517,300,000	$1,079,100,000	$1,321,625,000

Source: Exhibit 72, Overview Report: British Columbia Lottery Corporation Annual Reports.

In addition to demonstrating the steady growth in BCLC's casino revenue as the industry evolved, this data also illustrates the increasing significance of casinos within BCLC's business during this time period. In 2000–01, casino revenue represented approximately 33 percent of BCLC's total revenue. By 2009–10, casino revenue accounted for more than 52 percent, suggesting that as casino facilities were growing and evolving during this time period, so too was the prominence of casino gaming in BCLC's overall business.

Development of VIP Facilities and Programs

As the gaming industry evolved and new facilities were constructed, play of VIP patrons became increasingly important to the industry and a focus of competition between service providers. "VIP" is not a precisely defined term within the gaming industry in this province.[5] It does not refer to any particular threshold of frequency or monetary value of play and seems, at times, to be used more or less interchangeably with the terms "high limit" and "premium." When I refer to VIP play, VIPs or VVIPs, I am using these terms and phrases in a manner that I understand to be consistent with how they have been used by witnesses in the Commission's hearings; they refer generally to players gambling substantial sums of money, typically in areas of the casinos designated for high-limit play.[6]

While much of the attention devoted to the development of VIP amenities during the Commission's hearings was focused on the River Rock Casino, there is evidence before me that facilities operated by multiple service providers took steps to enhance their VIP

5 Exhibit 148, Affidavit #1 of Daryl Tottenham, sworn on October 30, 2020 [Tottenham #1], para 12.

6 Ibid.

offerings at various times.[7] I do not suggest that the actions taken by the River Rock in this regard are necessarily representative of the actions or experiences of other casinos or service providers, but it is clear that there was a general increase in efforts to attract VIP players to casinos throughout the Lower Mainland in the years that followed the enactment of the *Gaming Control Act*.

When the River Rock Casino first opened in 2004, it included two high-limit areas – one devoted to baccarat, the other to blackjack.[8] The high-limit blackjack space was soon converted to baccarat due to player demand.[9] According to Walter Soo, vice-president of gaming development for Great Canadian at the time the River Rock opened,[10] even before the new casino was completed, there was concern within Great Canadian that these offerings were insufficient, as greater competition for VIP play from new facilities elsewhere in the Lower Mainland loomed on the horizon.[11] Mr. Soo described to me the competitive landscape into which the River Rock opened in 2004:[12]

> [B]y the beginning of 2004, about half a year before the casino was going to open, [Great Canadian] became very concerned and I think it graduated there that knowledge had come to us, it was very open that [cities] that had originally opposed casino expansion were changing that decision. In particular, in 2004, we knew that the following year, 2005, the Edgewater Casino was going to open at the Plaza of Nations in Vancouver. We knew that Gateway was opening out in Langley, the Cascades Casino with a small hotel. We even knew back then that there was going to be one somewhere in Queensborough, which ended up being the Starlight Casino, and we knew as well, too, that Burnaby, the existing casino was going to go on a major redevelopment across the street, combine that with a hotel. So, there was excitement at the same time for the opening, but there was also extreme concern that the market and our market shares specific to that could quickly be cannibalized, and it was a major component of building the resort that the whole – the casino and the gaming revenues there justified the viability of having that resort built.

2005 International Premium Player Program Proposal

In response to this anticipated competition, Mr. Soo was appointed to oversee the development of a proposal to establish an "international premium player

7 Evidence of R. Duff, Transcript, January 25, 2021, pp 4–5, 22–24, 27–28; Evidence of M. Chiu, Transcript, January 21, 2021, pp 4–7; Exhibit 148, Tottenham #1, para 26; Exhibit 166, Affidavit #1 of Michael Hiller, sworn on November 8, 2020 [Hiller #1], para 30; Exhibit 1040, Affidavit #2 of Bill Lang, affirmed on May 21, 2021 [Lang #2].

8 Evidence of R. Duff, Transcript, January 25, 2021, pp 22–23.

9 Ibid, p 23.

10 Exhibit 559, Soo #1, para 12.

11 Ibid, paras 26–32; Evidence of W. Soo, Transcript, February 9, 2021, pp 11–13.

12 Evidence of W. Soo, Transcript, February 9, 2021, pp 12–13.

program" designed to attract players from outside of the province.[13] To assist in the development of this proposal, Great Canadian engaged Macomber International, a consulting firm based in Nevada, which prepared a report dated April 2005 and titled "An Analysis of Premium Table Game Incentive Programs and a Recommendation for the Initialization of a Program at the River Rock Casino."[14] The report contains more than 100 pages of analysis and discussion, concluding with a description of a "proposed program" for the River Rock, which it estimates would generating revenue increases "entirely attributable to new play" of $9.6 million in the first year of its implementation.[15] The proposed program identifies four "target markets" as follows:[16]

1. Asian business travelers from Mainland China, Hong Kong and Taiwan (and their party) who are traveling through Vancouver to other points on the North American continent.

2. Asian business travelers from Mainland China, Hong Kong and Taiwan (and their party) who are traveling to Greater Vancouver as their final destination.

3. Gamers from Mainland China, Hong Kong and Taiwan (and their party), who are visiting Greater Vancouver specifically to gamble at the River Rock Casino.

4. Well-healed [*sic*] Asian gamers who reside part-time and/or permanently in the Vancouver region and who currently do not gamble at River Rock because of a lack of minimum desired products and services. These gamers currently play in Las Vegas and, to a lesser extent, Asia and wherever else they can get the game conditions they seek. It is worth noting that the major Las Vegas casino operators have had satellite marketing offices in Vancouver for years to identify and attract Premium Table Game Players to Las Vegas.

The proposed program also identifies "tactics" to be implemented as part of this program, including the following:[17]

1. Offer a "squeeze" Baccarat game on at least one, "big" baccarat game (i.e., one that seats 14 players).

2. Offer credit to premium table game players under rules developed by BCLC and GCGC.

3. Offer maximum table game limits of $12,000 (US$10,000) per bet.

13 Exhibit 559, Soo #1, paras 30–32, 34–35; Evidence of W. Soo, Transcript, February 9, 2021, pp 11–14.

14 Exhibit 559, Soo #1, exhibit C.

15 Ibid, exhibit C, pp 97–98.

16 Ibid.

17 Ibid, exhibit C, p 98.

4. Upgrade the design and decor of the current "high limit" room in keeping with Asian culture preferences (as reviewed and adjusted for by a Vancouver respected *Feng Shui* master) as a first step to initialize the program. If demand builds as expected, add a dedicated exclusive room, possibly with private, invitation only areas.

5. Recruit table game hosts and staff that are multi-lingual in Cantonese, Mandarin, and English.

6. Activate the ENDX Casino Management System's player tracking module to accommodate premium table game player tracking. Develop chip tracking systems commensurate with incentive programs employed, i.e., cash chip turnover, nonnegotiable chip turnover, rebate on loss, front money, and other incentive-based programs.

7. Establish licensing criteria for third party representatives [engaged to assist in marketing to and recruiting players] (if utilized).

Of particular significance to the mandate of this Commission, and related to the second of these "tactics," the report identifies that, for the program to succeed, the casino would need to offer sufficient cash alternatives to facilitate play by VIPs at the levels referred to in the passage reproduced above.[18] Significantly, the report linked the need for cash alternatives – and particularly the availability of credit – to the risks of "loan sharking" and money laundering:[19]

> While each element of the product mix is important, the availability of credit is one of the critical factors when building a premium table game player program. International currency laws as well as heightened suspicions in this post 9/11 era precludes gamers from traveling with large sums of cash. It is simply inappropriate to expect an international traveler to carry in excess of $25,000 in cash for gambling purposes. The gamer not only exposes himself to possible confrontations with customs authorities, he is exposing himself to theft or currency confiscation. Therefore, BCLC and River Rock must establish some form of credit that will allow premium table game players to access a sufficient amount of money to gamble with during their visits. *Credit issuance also significantly reduces the potential for criminal activities such as loan sharking or money laundering to occur.* [Emphasis added.]

Great Canadian proposed the development of a program of the sort described in the Macomber International report, but BCLC ultimately declined to proceed with the proposal. In a letter dated February 6, 2006, Brian Lynch, then vice-president of casino gaming for BCLC, focused on the need to offer credit to support the program proposed

18 Exhibit 559, Soo #1, paras 40–43; Evidence of W. Soo, Transcript, February 9, 2021, pp 15–20.

19 Exhibit 559, Soo #1, exhibit C, p 30; Evidence of W. Soo, Transcript, February 9, 2021, pp 28–29, 40–42.

by Great Canadian and noted that doing so would be contrary to GPEB's July 2005 Responsible Gaming Standards.[20] He also noted that the use of "player agents to bring foreign players into the province who are unknown to BCLC and Great Canadian [would] open BCLC and the Provincial government to the possibilities of terrorist participation, international money laundering and organized crime activities."[21] Mr. Lynch concluded this letter by distinguishing the role of BCLC as a Crown corporation from that of privately run gaming entities discussed in the Macomber International report:[22]

> Given the rather modest potential increase in revenue of $9.6m when faced with the substantial risk, the risk is far greater than the potential reward. BCLC is a Crown Corporation acting as an agent for the Provincial government and is held to a very high standard by the citizens of BC, that is a higher standard than privately run gambling entities, and therefore we must ensure that the highest standards and integrity are maintained.

2007 Player Development Program Proposal

Following BCLC's decision to decline to proceed with the 2005 proposal, Mr. Soo was again directed to examine the prospects of attracting more VIP play, including international and out-of-province players, to the River Rock.[23] In response, in 2006 and 2007, Mr. Soo prepared a new proposal, titled "Player Development Program: Review on Strategic Alliances."[24]

This proposal suggested offering incentives to "premium players," the use of player agents to "source, deliver, and host premium players" at Great Canadian properties, increased bet limits, changes to baccarat game play, and adjustments to the structure of revenue distribution between BCLC and Great Canadian.[25] This proposal again highlighted the need for enhanced cash alternatives to support the proposed offerings.[26] Mr. Soo told me that this proposal was presented to various executives within Great Canadian, but did not suggest that it was advanced to BCLC.[27] The proposal was never implemented in full, though elements of it would later be introduced at the River Rock.[28]

Casino Security Enhancements

As the gaming industry evolved, so did security concerns surrounding casinos. Rich Coleman, who was the minister responsible for gaming when the River Rock

20 Exhibit 559, Soo #1, exhibit D.
21 Ibid.
22 Ibid.
23 Ibid, paras 50–54, 58 and exhibit E.
24 Ibid, paras 54–59 and exhibit E.
25 Ibid, exhibit E, pp 2–3
26 Ibid, paras 53–54 and exhibit E, pp 4, 11.
27 Ibid, paras 57–58.
28 Ibid, para 58.

opened in 2004, identified enhanced security as one of the rationales for government's efforts to modernize the gaming industry following the 2001 provincial election discussed in Chapter 9.[29]

BCLC recognized some of the security challenges that came with an evolved gaming industry and made enhancements in response. Among these were updates to existing surveillance and security policies[30] including requirements that service providers implement digital surveillance systems and, eventually, license plate recognition technology.[31] Repeated attempts were also made to implement facial recognition technology.[32]

Around this time, BCLC also acquired and customized a computer system called iTrak to support mandatory reporting to GPEB and later FINTRAC.[33] Use of this system was required for all gaming service providers and provided BCLC with greater visibility into incident reports from facilities across the province as these reports were created.[34]

Stationing BCLC Investigators in Casinos

With the construction of new, more sophisticated gaming facilities, BCLC began to refine the manner in which it deployed its investigative staff. Whereas BCLC investigators had previously been based out of BCLC's headquarters and travelled to casinos as needed,[35] by 2006,[36] BCLC was permanently stationing investigators at gaming facilities. This began with a pilot program in which two investigators were stationed at the River Rock. It was eventually implemented at other Lower Mainland casinos.[37]

The decision to station investigators at casinos was made by Terry Towns, then BCLC's director of security.[38] In his evidence, Mr. Towns explained that he made this decision to ensure that the investigators under his direction received information about incidents occurring in casinos and could take appropriate action in a timely manner. It was also done to assist investigators in developing relationships with service provider staff

29 Evidence of R. Coleman, Transcript, April 28, 2021, pp 30–31.

30 Evidence of T. Towns, Transcript, February 1, 2021, pp 24–26.

31 Exhibit 517, Affidavit of Terry Towns made January 22, 2021 [Towns Affidavit], para 22; Evidence of T. Towns, Transcript, February 1, 2021, p 24.

32 Exhibit 517, Towns Affidavit, para 22.

33 Ibid, para 21; Evidence of T. Towns, Transcript, February 1, 2021, p 24.

34 Exhibit 517, Towns Affidavit, para 21; Evidence of T. Towns, Transcript, February 1, 2021, p 24.

35 Evidence of G. Friesen, Transcript, October 28, 2020, pp 34–37.

36 There is some disagreement in the evidence as to precisely when BCLC began stationing investigators in casinos. All witnesses place the beginning of this approach between 2004 and 2006. The balance of the evidence suggests this took place in 2006: Exhibit 517, Towns Affidavit, para 40; Evidence of T. Towns, Transcript, February 1, 2021, p 27; Evidence of P. Ennis, Transcript, February 4, 2021, pp 27–28; Exhibit 78, Affidavit #1 of Steve Beeksma, affirmed on October 22, 2020 [Beeksma #1], paras 27, 31, 32; Evidence of G. Friesen, Transcript, October 28, 2020, pp 37–38; Evidence of J. Karlovcec, Transcript, October 29, 2020, p 82.

37 Exhibit 517, Towns Affidavit, para 40; Evidence of T. Towns, Transcript, February 1, 2021, p 27; Evidence of P. Ennis, Transcript, February 4, 2021, pp 27–38; Exhibit 78, Beeksma #1, paras 27, 31, 32; Evidence of G. Friesen, Transcript, October 28, 2020, pp 37–38; Evidence of J. Karlovcec, Transcript, October 29, 2020, p 82.

38 Exhibit 517, Towns Affidavit, para 40; Evidence of T. Towns, Transcript, February 1, 2021, p 27.

and law enforcement in the jurisdictions in which casinos operated.[39] Mr. Towns said that the River Rock was selected as the site for this pilot because it was the province's busiest casino, and it had dedicated office space for the investigators.[40]

The first two investigators stationed at the River Rock were Gordon Friesen and John Karlovcec.[41] Mr. Friesen and Mr. Karlovcec both described this pilot project as a success. Following what both perceived to be an initial period of skepticism or trepidation on the part of casino management, the investigators soon developed a strong relationship with service provider staff and law enforcement, and the casino management came to welcome the presence of the investigators.[42] I heard from several Great Canadian employees (including Mr. Duff, Steve Beeksma and Patrick Ennis),[43] all of whom agreed that having investigators on site enabled the development of a productive relationship between casino staff and the investigators and facilitated the discussion and resolution of issues that arose within the casino.[44] None of these witnesses evidenced any skepticism or trepidation arising from the presence of the investigators at the River Rock. In their evidence, both Mr. Ennis and Mr. Beeksma contrasted the regular presence of BCLC investigators with those working for GPEB, who were present in casinos regularly, but much less frequently than their BCLC counterparts.[45]

Increase in Criminal Activity and Cash Facilitation

Despite these enhancements to casino security, it is evident that the evolution of the province's gaming industry and, in particular, the opening of the River Rock Casino, precipitated an increase in suspicious activity connected to the casino. The evidence before me suggests these changes were followed by an increase in criminal activity in the vicinity of the River Rock, as well as the growth of cash facilitation observed at the casino.

General Increase in Criminal Activity in the Vicinity of River Rock

In his evidence before the Commission, Ward Clapham, officer-in-charge of the Richmond RCMP detachment when the River Rock Casino opened in 2004, described a significant and unexpected increase in criminal activity in the vicinity of the casino following its opening:[46]

39 Exhibit 517, Towns Affidavit, para 40; Evidence of T. Towns, Transcript, February 1, 2021, p 27.

40 Exhibit 517, Towns Affidavit, para 41.

41 Exhibit 78, Beeksma #1, paras 27, 31; Evidence of G. Friesen, Transcript, October 28, 2020, pp 37–38; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 81–82.

42 Evidence of G. Friesen, Transcript, October 28, 2020, pp 37–38, 43; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 82–83.

43 At the time that BCLC began to station investigators at the River Rock in 2006, Mr. Duff was manager of the River Rock Casino, Mr. Beeksma was a surveillance shift manager at the River Rock, and Mr. Ennis was Great Canadian's director of security.

44 Exhibit 78, Beeksma #1, paras 31–32; Evidence of P. Ennis, Transcript, February 4, 2021, pp 27–28; Evidence of R. Duff, Transcript, January 25, 2021, pp 38–39.

45 Exhibit 78, Beeksma #1, para 34; Evidence of P. Ennis, Transcript, February 4, 2021, pp 28–29.

46 Evidence of W. Clapham, Transcript, October 27, 2020, pp 134–35.

> [B]y 2005, I don't think anyone could have predicted what we started to see was – because it was a degree of unknown, but the kidnappings – we saw a couple kidnappings, and we were getting lots of [intelligence] reports and briefings regarding money laundering, robberies, loan sharking. Now, these generally speaking are not reported to the police. The bad guys, bad girls, they're not going to report to us and, generally speaking, the victims, so a lot of this was intelligence that we were picking up and/or when we were called in to get involved in 2005 the two kidnappings, for example, or just the other large issues that we were starting to see come from the River Rock.

Mr. Clapham described how, in response to this increase in criminal activity, he directed his general duty officers to maintain a greater presence in the area of the casino. This increased presence included foot patrols in the facility itself, though due to limited resources, these patrols were infrequent.[47] When even these limited patrols prompted a phone call from a vice-president with Great Canadian (whose name Mr. Clapham could not remember) asking that they stop because they were bad for business, Mr. Clapham and other senior members of the detachment began to lead these patrols personally.[48]

Mr. Clapham also sought to address the increased criminal activity in the vicinity of the River Rock by twice proposing to the City of Richmond the creation of a small police unit dedicated to the casino. The first of these proposals, made in 2005, was for a four-person unit including uniformed and plainclothes officers that would be responsible for both foot patrols and investigations based on available intelligence. After this proposal was rejected by the City of Richmond, Mr. Clapham made a more modest proposal for a two-officer unit the following year. This proposed casino unit was the third-highest priority in the detachment's budgetary proposal that year, and while the City did agree to fund additional positions for the detachment, they were insufficient to satisfy the detachment's two highest priorities and, as such, the casino unit was not created. A gaming-focused unit remained a priority for Richmond RCMP detachment when Mr. Clapham retired in 2008. To his knowledge, no such unit was ever established.[49]

Increased Cash Facilitation

At the same time that the Richmond RCMP recognized an increase in criminal activity generally in the area of the River Rock casino, those working within the gaming

47 Ibid, pp 137–38.

48 Ibid, pp 138–39.

49 Ibid, pp 143–63; Evidence of W. Clapham, Transcript, October 28, 2020, pp 6–12, 17–19; Exhibit 94, RCMP Briefing Note – Supt. Ward Clapham – Richmond RCMP Annual Reference Level Update 2007/2008; Exhibit 95, Calls for Service – Site Specific – The Great Canadian Casino and River Rock; Exhibit 96, Serious and Unreported Crime at the Casinos (adapted from a report by Cst. David Au of Richmond CIS); Exhibit 97, City of Richmond – Report to Committee (September 1, 2006); Exhibit 98, City of Richmond – Additional Level Request Form for Budget Year 2007; Exhibit 101, RCMP Memorandum to City of Richmond (December 11, 2006); Exhibit 102, City of Richmond Regular Council Meeting (February 26, 2007); Exhibit 103, City of Richmond – Law & Community Safety 2007 Achievements / 2008 Priorities; Exhibit 104, 2007 Annual Report, City of Richmond.

industry identified an increase in cash facilitation activity at the casino. As discussed in Chapter 9, cash facilitators had become a regular presence in the province's casinos in the latter part of the 1990s. Mr. Beeksma, who worked as a surveillance shift manager at the River Rock beginning in May 2004, spoke of his observations of growth in cash facilitation at the new casino relative to the old Richmond Casino:[50]

> When River Rock first opened in July 2004, the problematic activity at that time was mainly cash and chips being passed to players by suspected loan sharks. I noticed a significant increase in the number of individuals that I suspected were working as loan sharks compared to the number of such individuals at the Richmond Casino … The suspected loan sharks I saw at River Rock when it first opened included some of the suspected loan sharks I had seen at the Richmond Casino, but also included people … who seemed to be higher up the food chain.

Similar observations were made by employees of BCLC and GPEB in the years that followed the River Rock's opening. Mr. Friesen and Mr. Karlovcec, the first two BCLC investigators stationed at the River Rock in 2006, testified that they observed cash facilitation at the casino when first stationed there and that it was a high priority issue at the time.[51] Larry Vander Graaf, then executive director of the GPEB investigation division, gave evidence that cash facilitation was a priority for the Branch's investigation division by 2007.[52] Similarly Joe Schalk, who worked under Mr. Vander Graaf as the senior director in the investigation division, testified that it had been a matter of concern for the division from the time he joined GPEB in 2002, but that it became more prevalent over time.[53]

Mr. Towns said that cash facilitation actually *decreased* when the River Rock opened.[54] Based on the evidence of Mr. Beeksma, however, who was present in the casino on a daily basis and directly responsible for monitoring activity on the casino floor, and whose evidence is corroborated by the observations of Mr. Friesen, Mr. Karlovcec, Mr. Vander Graaf, and Mr. Schalk, I am satisfied that there was a marked increase in cash facilitation at the new River Rock Casino as compared to the old Richmond Casino.

Though BCLC and GPEB seemed to make similar observations regarding the increasing prevalence of cash facilitation at the River Rock, the two organizations responded differently to these observations. Their distinct responses are described below.

50 Exhibit 78, Beeksma #1, para 28.

51 Evidence of G. Friesen, Transcript, October 28, 2020, pp 39–40; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 83–84.

52 Exhibit 181, Affidavit #1 of Larry Vander Graaf, made on November 8, 2020 [Vander Graaf #1], paras 31–32; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 45, 48.

53 Evidence of J. Schalk, Transcript, January 22, 2021, pp 186–87.

54 Exhibit 517, Towns Affidavit, para 57.

BCLC Response to Cash Facilitation

As cash facilitation increased, BCLC recognized that there was a risk that this activity could be connected to criminality and took action to remove it from casinos. Mr. Towns acknowledged in his evidence that BCLC's concerns about cash facilitation were linked to concerns that the funds distributed by cash facilitators could be the proceeds of crime.[55] Mr. Friesen referred in his testimony to cash facilitation as a "red flag" for money laundering.[56]

BCLC investigators were trained to identify cash facilitation on the gaming floor.[57] When observed, investigators would gather as much information as possible and submit reports to their superiors requesting that the individuals engaged in the activity be barred from casinos across the province.[58]

Mr. Beeksma, then a surveillance shift manager at the River Rock, shared his observations of BCLC's response to cash facilitation following the opening of the River Rock:[59]

> In response to the presence of suspected loan sharks and the cash and chip passing that was occurring when River Rock first opened, there was a blitz of efforts by BCLC casino investigators to get these people out of the casino. The measures BCLC casino investigators took were very aggressive, with people being removed from the casino for even passing a few chips to a friend. Most of these individuals would end up banned from the casino as well, which I could see had occurred when I was reviewing subject profiles in iTRAK. For example, iTRAK allows a user to filter subject profiles according to whether there have been any changes to the profile in the last 24 hours. I would typically come in and review such subject profiles and could see that a particular person had been banned for chip passing.

Mr. Beeksma testified that cash facilitation remained an issue following this "blitz of efforts," but he recalled that BCLC was successful in significantly reducing this activity at the River Rock.[60] This assessment was shared by Mr. Vander Graaf, who described BCLC's response as taking on the task of barring cash facilitators "with a vengeance."[61]

It is clear that BCLC took significant steps to address the issue of cash facilitation occurring at the River Rock in the years immediately following the casino's opening and that these actions achieved some success. There were limits to these efforts, however. First, while BCLC was able to remove cash facilitators from casinos, it had little ability

55 Evidence of T. Towns, Transcript, January 29, 2021, p 142.
56 Evidence of G. Friesen, Transcript, October 28, 2020, p 43.
57 Exhibit 517, Towns Affidavit, paras 45–46.
58 Evidence of G. Friesen, Transcript, October 28, 2020, p 40.
59 Exhibit 78, Beeksma #1, para 33.
60 Evidence of S. Beeksma, Transcript, October 26, 2020, p 35.
61 Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 50.

to directly combat cash facilitation occurring off casino property.[62] This meant that cash facilitators could continue to provide cash to patrons outside casino property or by entering the property only to deliver cash and departing immediately afterward. Mr. Schalk and Mr. Vander Graaf both observed that the impact of BCLC's efforts was not to eliminate cash facilitation but to move cash facilitators off site, from where they began to deliver cash to patrons at the casino.[63] By 2006, BCLC did seek to engage law enforcement on the issue of cash facilitation, although this does not appear to have yielded any response or had any significant impact on cash facilitation based outside casino property.[64]

Another factor that limited the success of BCLC's efforts to address cash facilitation was a focus on the cash facilitators themselves, as opposed to the funds the cash facilitators were providing or the patrons who used those funds. Despite the acknowledgements of Mr. Towns and Mr. Friesen that the funds provided by cash facilitators may have been the proceeds of crime and may have been linked to money laundering, cash obtained from cash facilitators generally continued to be accepted by casinos, and the patrons who gambled those funds continued to be allowed to do so.[65] While BCLC could have barred players receiving suspicious cash from cash facilitators or directed service providers to refuse cash delivered by cash facilitators, it did not take either of these steps during this time period.

GPEB Response to Cash Facilitation

Whereas Mr. Towns and Mr. Friesen acknowledged that it was possible that cash facilitation during this time period was linked to proceeds of crime and money laundering, the leadership of GPEB's investigation division firmly believed that this was the case. Based on his law enforcement experience, which included significant experience conducting proceeds-of-crime investigations, as well as the presentation of the cash provided by cash facilitators – particularly the predominant use of $20 bills – Mr. Vander Graaf was convinced that the funds provided by cash facilitators were the proceeds of crime and that they should not have been accepted by casinos.[66]

Mr. Schalk reached a similar conclusion based on his own law enforcement experience and the advice of others with relevant expertise. Mr. Schalk told me that the GPEB's investigation division was in contact with members of the RCMP Integrated Proceeds of Crime (IPOC) unit about this issue and that, by 2008, had received advice that supported the division's own conclusions as to the illicit origins of the funds provided by cash facilitators.[67]

62 Evidence of T. Towns, Transcript, January 29, 2021, p 143.

63 Evidence of J. Schalk, Transcript, January 22, 2021, pp 186–87; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 54–55 and Transcript, November 13, 2020, pp 155–56.

64 Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 83–85.

65 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 155–56.

66 Exhibit 181, Vander Graaf #1, para 34; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 50–51.

67 Evidence of J. Schalk, Transcript, January 22, 2021, pp 181–82.

Despite the strength of their beliefs that the funds provided by cash facilitators were the proceeds of crime, the actions taken by the GPEB investigation division to address this issue during this time period were limited. When asked what the division was doing about the issue at this time, Mr. Schalk responded:[68]

> Well, initially it was to collect as much information as possible about the actual transactions, including video recapture, all of the information relevant to the individual coming in with that information. And then certainly having the availability, if not directly, providing it to the police or police authorities.

Despite the concerns of Mr. Schalk, Mr. Vander Graaf, and their colleagues in the GPEB investigation division regarding the origins of the funds provided by cash facilitators, the actions taken by the division to address those concerns seem to have been largely limited at this time to collecting information about these activities as described by Mr. Schalk above. Mr. Vander Graaf, Mr. Schalk, and Derek Dickson, a former GPEB investigator, all sought to explain the Branch's limited action by pointing to limits on the authority granted to GPEB, including the absence of any authority to bar patrons from casinos – something Mr. Vander Graaf unsuccessfully sought to change – and limits on GPEB's investigative authority.[69] While I acknowledge there were some limits on the investigation division's authority, it nevertheless remains the case that, despite their expressions of grave concern over the source of funds being provided by cash facilitators in the years following the opening of the River Rock and other new casinos in the Lower Mainland between 2004 and 2008, GPEB took little meaningful direct action to address this problem.

2008–2015: Rise of Suspicious Cash

With the benefit of hindsight, it is now clear that the developments in the gaming industry described above set the stage for a dramatic increase in the volume of cash accepted in the province's casinos in the years that followed. Beginning in 2008 and 2009, individuals working in various capacities in the gaming industry noticed an increase in the size and frequency of cash buy-ins at some Lower Mainland casinos. At the same time, the number of cash transactions reported by service providers to GPEB and by BCLC to FINTRAC, as well as the cumulative and individual values of those transactions, increased rapidly.

Beginning of the Rise in Suspicious Cash

Multiple witnesses gave evidence of an increase in the size and frequency of cash transactions observed in Lower Mainland casinos beginning in or around 2008.

68 Ibid, p 182.

69 Evidence of D. Dickson, Transcript, January 22, 2021, pp 45–47, 70, 99–101; Evidence of J. Schalk, Transcript, January 22, 2021, pp 199–201; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 45–48.

Mr. Karlovcec, for example, testified that he observed a steady increase in the volume of cash accepted at the River Rock during the period he was stationed at the casino (2006 to 2008) and that he would commonly see buy-ins of $10,000 to $25,000 or higher.[70] Mr. Friesen, who was based at the River Rock alongside Mr. Karlovcec, indicated that buy-ins of $50,000, while unusual, did occur during this period.[71] Mr. Schalk and Mr. Vander Graaf told me that the GPEB investigation division also identified increases in cash transactions at this time.[72] Mr. Schalk gave the following evidence regarding the size of the transactions observed during this period:[73]

> Well, the volumes of buy-ins were in the 30-, 50-, $100,000 was often significant – really significant at that time, and there [were] very few of those. But the volume, the dollar volume or dollar value was more in the tens of thousands of dollars, up to, say, 50-or-so thousand initially. We did have a couple of odd times where there was more, 100,000 or more, that had come in and certainly we became very, very conscious of looking at those.

Similar observations were made by Mr. Ennis, who told me that he began to regularly observe six-figure buy-ins at the River Rock Casino after bet limits were increased to $5,000 "per position."[74] Mr. Ennis was not certain of when this bet limit increase occurred but suspected that it took place in or around 2008.[75] This timing is corroborated by the evidence of Jim Lightbody, chief executive officer and president of BCLC beginning in 2014.[76] Mr. Vander Graaf also tied the acceleration in suspicious transactions to an increase in bet limits around this time.[77]

That the frequency and value of suspicious cash transactions began to increase in or around 2008 is supported by reporting data available from that time. By 2012, the GPEB investigation division had begun to produce "reports of findings" that included data regarding transactions reported as "suspicious currency transactions" (SCTs) pursuant to section 86 of the *Gaming Control Act*. The first such report, dated November 19, 2012, sets out the number of such reports received each year from 2007 to 2011, identifying a significant jump between 2007 and 2008:[78]

70 Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 86–88; Evidence of J. Karlovcec, Transcript, October 30, 2020, p 126.

71 Evidence of G. Friesen, Transcript, October 28, 2020, p 42.

72 Exhibit 181, Vander Graaf #1, para 35, exhibit G; Evidence of J. Schalk, Transcript, January 22, 2021, p 109; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 51–52, 165–66 and Transcript, November 13, 2020, p 39.

73 Evidence of J. Schalk, Transcript, January 22, 2021, p 110.

74 Exhibit 530, Affidavit #1 of Patrick Ennis, made on January 22, 2021 [Ennis #1], para 15; Evidence of P. Ennis, Transcript, February 3, 2021, p 72; Evidence of P. Ennis, February 4, 2021, pp 23–24.

75 Evidence of P. Ennis, Transcript, February 3, 2021, p 72.

76 Exhibit 505, Affidavit #1 of Jim Lightbody, sworn on January 25, 2021 [Lightbody #1], exhibit 22.

77 Exhibit 181, Vander Graaf #1, para 36; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 51–52.

78 Exhibit 181, Vander Graaf #1, exhibit G, p 2.

Table 10.2: Suspicious Cash Transactions, 2007–2011

Calendar Year	Section 86 SCT Reports
2007	59
2008	213
2009	211
2010	295
2011	676

Source: Exhibit 181, Affidavit #1 of Larry Vander Graaf, exhibit G.

Growth in Suspicious Cash

The data found in this and later reports of findings suggest that the frequency and volume of suspicious cash accepted by the province's casinos continued to increase in the years that followed.

Reports for subsequent years, which present data for 12-month periods, but not according to the calendar year, show that the number of suspicious currency transactions continued to rise:[79]

Table 10.3: Suspicious Cash Transactions, 2010–2014

Year	Section 86 SCT Reports
2010–11	459
2011–12	861
2012–13	1,062
2013–14	1,382

Source: Exhibit 181, Affidavit #1 of Larry Vander Graaf, exhibit O and Q.

The reports of findings also include information that demonstrates that the cumulative amount of cash accepted in these transactions increased along with the number of suspicious transactions. For example, an October 2013 report indicates that the total value of "suspicious currency transactions" reported to GPEB between July 1, 2010, and June 30, 2011, was $39,572,313. This increased to $87,435,297 for the one-year period beginning on January 1, 2012.[80] A subsequent report indicates that the value of such transactions had increased again to $118,693,215 in the 2013–14 year.[81]

Further evidence of the rate at which cash transactions increased during this period is found in large cash transaction reporting data and suspicious transaction

79 Ibid, exhibit O, p 2 and exhibit Q, p 195.

80 Ibid, exhibit O, p 2.

81 Ibid, exhibit Q, p 1.

reporting data from BCLC.[82] Table 10.4 below sets out the number and value of large cash transaction (LCT) reports submitted by BCLC to FINTRAC between 2010 and 2015. It is important to bear in mind that, unlike the data from section 86 SCT reports, which includes only transactions identified as suspicious by the reporting party (service providers or BCLC), this data represents *all* transactions of $10,000 or more during these years, including those *not* deemed suspicious by service providers and/or BCLC. While these data do not speak to the character of the transactions, other than their value, they do provide an indication of the number and value of all large cash transactions, and some insight into the rate at which the volume of cash present in the industry was growing during this time period:[83]

Table 10.4: Large Cash Transaction Reports, 2010–2015

Year	Number of LCTs of $10,000 or More	Cumulative Value of LCTs of $10,000 or More
2010	17,976	$342,260,480
2011	19,117	$388,316,963
2012	21,525	$492,417,655
2013	27,449	$750,664,064
2014	34,720	$1,184,603,543
2015	35,655	$968,145,428

Source: Exhibit 784, Affidavit #2 of Cathy Cuglietta, exhibit A.

While it is important to bear in mind that the transactions represented in this table are not limited to those identified by service providers or BCLC as suspicious, these figures demonstrate the acceleration of large cash transactions in the industry during this time period. In just five years between 2010 and 2014, the number of cash transactions of $10,000 or more nearly doubled and the value of those transactions nearly quadrupled.

Additional insight into the nature and volume of suspicious cash that was entering the gaming industry by the end of this period is found in BCLC data for suspicious transaction reporting. This type of data is unavailable prior to 2014 and, therefore, is not of assistance in illustrating the growth of such transactions leading up to that year. It does indicate, however, that in 2014, BCLC reported a total of 1,631 suspicious transactions, including 493 with a value between $50,001 and $100,000 and 595 with a value over $100,000.[84] The following year, BCLC reported 1,737 suspicious transactions,

82 Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2020 [Cuglietta #1]; Exhibit 784, Affidavit #2 of Cathy Cuglietta, sworn on March 8, 2021 [Cuglietta #2]. Note: "Cathy Cuglietta" and "Caterina Cuglietta" refer to the same witness.

83 Exhibit 784, Cuglietta #2, exhibit A.

84 Exhibit 482, Cuglietta #1, exhibit A.

including 524 between $50,001, and $100,000 and 527 with a value over $100,000.[85] The total value of all transactions reported as suspicious in these years was $195,282,332 in 2014 and $183,841,853 in 2015.[86]

The growth in cash transactions indicated by these data is also consistent with the evidence of a number of witnesses active in the gaming industry at the time.[87] Mr. Beeksma, for example, described a $460,000 buy-in at the River Rock in May 2010 and his general observations of the evolution of large cash transactions at the River Rock following this transaction:[88]

> I recall that this was the incident that made BCLC, as well as other stakeholders such as GPEB and service providers, start to take a second look at what more could be done about the volume of cash coming into casinos. This was, to the best of my recollection, the beginning of the period in which significant amounts of cash began entering the casinos. At River Rock, a cash buy-in for $400,000 became a much more common occurrence in the years that followed this incident, with the volume of cash buy-ins peaking in 2014–2015. To the best of my recollection, at their peak, cash buy-ins in the range of $100,000 to $200,000 were fairly common in the high limit rooms at River Rock, and some cash buy-ins could be as high as in the range of $800,000 in the high limit rooms at River Rock. $20 bills were the most common denomination for these cash buy-ins.

While this passage from Mr. Beeksma's evidence is focused on activity at the River Rock, the evidence before me establishes that these issues were not limited to a single casino. Multiple witnesses gave evidence of activity that was similar in kind – if not necessarily extent – at other facilities in the Lower Mainland, including the Starlight, Grand Villa, and Edgewater casinos. Mr. Beeksma,[89] Michael Hiller,[90] Daryl Tottenham,[91] and Mr. Karlovcec[92] – all current or former BCLC investigators – and Mr. Dickson[93] all gave evidence of similar transactions at the Starlight Casino. Mr. Hiller also gave evidence that he was aware of this kind of activity at the Edgewater and Grand Villa

85 Ibid.

86 Exhibit 784, Cuglietta #2, exhibit A. These figures include eGaming and "external request" suspicious transaction reports: ibid, para 6.

87 Exhibit 148, Tottenham #1, paras 18 and 64; Exhibit 87, Affidavit #1 of Stone Lee, sworn on October 23, 2020 [S. Lee #1], paras 29–33; Exhibit 144, Affidavit #3 of Ken Ackles, made on October 28, 2020 [Ackles #3], paras 18–24; Exhibit 181, Vander Graaf #1, paras 35–38; Exhibit 78, Beeksma #1, para 50; Exhibit 166, Hiller #1, para 34; Exhibit 145, Affidavit #1 of Robert Barber, made on October 29, 2020 [Barber #1], paras 20–33; Evidence of D. Dickson, Transcript, January 22, 2021, pp 11–12; Evidence of R. Barber, Transcript, November 3, 2020 pp 13–15.

88 Exhibit 78, Beeksma #1, paras 45–47, 50.

89 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 37–38.

90 Evidence of M. Hiller, Transcript, November 9, 2020, p 13.

91 Exhibit 148, Tottenham #1, para 18; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 5–6, 181–82.

92 Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 87–90.

93 Evidence of D. Dickson, Transcript, January 22, 2021, pp 4–7.

casinos.[94] Stone Lee, a BCLC investigator and former Great Canadian surveillance manager, was stationed at the Edgewater from 2008 to 2012 and gave evidence of cash facilitators lending upwards of $100,000 at a time at that casino.[95] Documents in evidence before the Commission further demonstrate that transactions of this sort took place at these casinos in and around this time period.[96]

Observations of Suspicious Cash Transactions

In addition to the size of these buy-ins, witnesses who gave evidence about cash transactions observed in casinos during this period also spoke of other distinctive features of these buy-ins. Mr. Karlovcec, for example, told me that the cash used in the transactions that he observed while stationed at the River Rock and Starlight casinos as a BCLC investigator tended to be predominantly in $20 bills, was sometimes bundled in elastic bands, and would often be brought into the casino in knapsacks, shopping bags, or paper bags.[97]

When asked about the distinctive features of large cash transactions that he was aware of during this period, Mr. Schalk offered a similar description:[98]

> [W]e were seeing this coming in in $10,000 lots and predominantly in $20 bills. What you would see is $10,000 of $20 bills stacked in a stack about this big, and it had usually three sets of elastic around it, two on the ends and one in the middle. And so, it would come in $10,000 packs, as I referred to them as, at least. Often, they came in in the form of large cases that people had, whether it be shopping bags, sometimes even suitcases, boxes, large bags, almost grocery shopping bags with – whether it be 100-, 200-, 300,000.
>
> Oftentimes they were also using kit bags or sporting bags. And we were seeing evidence of this via video where people would take a kit bag that ended up being full of $20 bills in $10,000 lots out of the trunk of their car in the parking lot of the casino, into the casino, up to the cash cage at the – usually the high limit room and deposit these cash bundles at the cash cage, asking that it be counted and then converted to chips that could be used for gaming.

Mr. Karlovcec and Mr. Schalk were not alone in making these observations.

94 Evidence of M. Hiller, Transcript, November 9, 2020, pp 12–13.

95 Evidence of S. Lee, Transcript, October 27, 2020, pp 16–18; Exhibit 87, S. Lee #1, paras 28–29, 33.

96 See, for example, Exhibit 488 (previously marked as Exhibit A), Letter from Joe Schalk, re Suspicious Currency Transactions – Money Laundering Review Report (December 27, 2012); Exhibit 145, Barber #1, exhibit F; Exhibit 507, Affidavit #1 of Derek Sturko, made on January 18, 2021 [Sturko #1], exhibit E; Exhibit 148, Tottenham #1, exhibits 3, 38; Exhibit 760, Casino – Investigational Planning & Report – IPOC (January 30, 2012); Exhibit 79, Affidavit #2 of Steve Beeksma, affirmed on October 22, 2020, exhibits 12, 32; Exhibit 87, S. Lee #1, paras 28–30; Exhibit 78, Beeksma #1, exhibit B.

97 Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 89–90.

98 Evidence of J. Schalk, Transcript, January 22, 2021, pp 111–12.

Numerous other witnesses gave similar evidence describing the nature of the transactions they observed in the province's casinos during this time period.[99]

Many of these witnesses had significant law enforcement experience, gained prior to joining the gaming industry, and drew on this experience to offer insight into the significance of these features of the large cash transactions they observed in the province's casinos.[100] Ken Ackles, who joined GPEB as an investigator in 2013, drew on his 37 years of experience as a member of the RCMP in forming his opinion that the funds used in transactions that occurred daily at the River Rock Casino were likely the proceeds of crime:[101]

> My experience as a policeman gave me the impression that the way that these bills were presented and in the fashion that they were presented, wrapped in elastic bands, packaged in bundles with misorientated bills – and I mean that by either face up, face down, reversed within the bundles – was significant to me from my experience in other investigations where I also had an opportunity to view bundled cash at the scenes of investigations that I conducted where cash was seized, it was the proceeds of crime or significantly the result of a commodity exchange in a criminal investigation.

Mr. Vander Graaf, who was a member of the RCMP from 1969 to 1998,[102] had led the Integrated Anti-Drug Profiteering unit (the predecessor to the RCMP IPOC unit),[103] and lectured around the world on subjects related to proceeds of crime,[104] formed a similar view based on his own experience:[105]

> Based on my past experience, I held the strong belief that the bags containing large volumes of cash being brought into casinos by persons dealing with loan sharks / organized crime and consisting of $20 bills wrapped in elastic bands in $10,000 bundles (known as "bricks" in the drug trade) were proceeds of crime.

I will reserve for later in this Report my own conclusions as to whether these funds were, in fact, the proceeds of crime, but it is clear from the evidence before me that

99 See example: Exhibit 166, Hiller #1, para 58; Evidence of M. Hiller, Transcript, November 9, 2020, pp 8–9; Evidence of D. Dickson, Transcript, January 22, 2021, p 6; Evidence of R. Barber, Transcript, November 3, 2020, pp 13–15; Evidence of R. Alderson, Transcript, September 9, 2021, pp 11–12, 117–18; Evidence of G. Friesen, Transcript, October 28, 2020, pp 84–87; Evidence of J. Karlovcec, October 29, 2020, pp 74–75, 90.

100 Evidence of K. Ackles, Transcript, November 2, 2020, p 11; Evidence of R. Barber, Transcript, November 3, 2020, pp 14–15; Exhibit 145, Barber #1, paras 6, 29–30; Evidence of M. Hiller, Transcript, November 9, 2020, p 12; Exhibit 181, Vander Graaf #1, para 54; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 56, 114, 173; Evidence of D. Dickson, Transcript, January 22, 2021, p 6; Evidence of J. Schalk, Transcript, January 22, 2021, pp 111–13.

101 Evidence of K. Ackles, Transcript, November 2, 2020, pp 11–12.

102 Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 3.

103 Ibid.

104 Ibid, pp 5–7; Exhibit 182, Curriculum Vitae of Larry Peter Vander Graaf.

105 Exhibit 181, Vander Graaf #1, para 54.

those engaged in the gaming industry at the time were aware of the distinctive features of this cash and drew their own conclusions as to the significance of those features.

Continued Development of VIP Offerings and Increased Bet Limits

Even as the rate at which large and suspicious cash transactions were being accepted in the province's casinos accelerated, the industry continued to implement measures intended to grow VIP business. These measures came in two forms. First, casinos in the Lower Mainland, particularly the River Rock, continued to develop VIP facilities and programs to attract additional high-limit play. Second, BCLC raised maximum betting limits on multiple occasions, enabling play at higher and higher levels.

Development of VIP Facilities

Earlier in this chapter, I described the concern that arose within Great Canadian, even as the River Rock was in development, about competition with other planned Lower Mainland facilities. In response to these concerns, Mr. Soo was asked to develop two proposals for plans to attract international VIP patrons. While neither of these proposals were implemented, soon afterward, Mr. Soo had the opportunity to guide significant enhancements to the River Rock's VIP amenities.

Mr. Soo explained how this opportunity arose from the 2010 Vancouver Winter Olympics, which overlapped with the Chinese New Year season. He gave evidence that the Chinese New Year was typically a lucrative period for the River Rock and that he was concerned that the VIP patrons who usually frequented the casino at that time of year might find increased crowds from the Olympics disruptive.[106] As a solution, Mr. Soo proposed that the River Rock's third-floor poker room be repurposed to create "an exclusive, restricted access gaming area which segregates premium table game players from mass market games and Olympic party guests."[107] Great Canadian proceeded to implement Mr. Soo's proposal.[108]

According to Mr. Soo and Mr. Duff, the general manager of the River Rock at the time, these developments were highly successful in increasing VIP business both at the time of the Olympics and afterwards.[109] This success led to further enhancements to the River Rock's VIP offerings in the years that followed, typically introduced in time for Chinese New Year.[110] Mr. Soo explained the annual cycle of VIP enhancements following the success of the 2010 project:[111]

106 Exhibit 559, Soo #1, paras 61–62; Evidence of W. Soo, Transcript, February 9, 2021, pp 33–37.

107 Exhibit 559, Soo #1, paras 63–64; Evidence of W. Soo, Transcript, February 9, 2021, pp 33–37.

108 Exhibit 559, Soo #1, para 65; Evidence of W. Soo, Transcript, February 9, 2021, pp 33–37.

109 Exhibit 559, Soo #1, para 65; Evidence of W. Soo, Transcript, February 9, 2021, pp 36–37; Evidence of R. Duff, Transcript, January 25, 2021, pp 25–26.

110 Evidence of W. Soo, Transcript, February 9, 2021, pp 36–37; Exhibit 559, Soo #1, paras 65–66.

111 Evidence of W. Soo, Transcript, February 9, 2021, pp 36–37.

> [O]nce it worked out for us, for years to come we adopted that model. What we did was look at what enhancements can we try out for the following Chinese New Year, specific to Chinese New Year because we knew there was a huge cluster of people coming back to repatriate with their families, and so that gave us the storefront for when they left and went back and told their friends, who all had status in Vancouver as well, too, that would come back throughout the year. They would be our walking advertising boards of saying hey, I was just in River Rock during Chinese New Year; they've created this product; it's really good, we like it; the next time you go there … And so, from a marketing perspective for year-round and also for the height of Chinese New Year it worked out for us and it worked out for us every year I would say from 2010 to 2014.

Specific changes proposed to the River Rock's high-limit space in late 2014 will be discussed later in this chapter.

While these changes may have enhanced the River Rock's VIP business, it is clear that they also accelerated the rate at which large volumes of cash were accepted at the casino. Attracting new VIP patrons and additional high-limit play, in an industry that remained cash-dominant, were certain to lead to increases in the volume of cash being used in the casino. Mr. Soo, Mr. Duff, and Mr. Ennis, who all worked for Great Canadian in different capacities at the time, each agreed that an increase in the cash accepted by the casino was the likely outcome of these changes.[112] As Mr. Soo put it, "[I]f your business is going to grow and it's a cash-only business, obviously the amount of cash is going to grow."[113] I note as well that it is clear from Mr. Soo's evidence that much of the VIP business being courted through these enhancements consisted of players with business interests in, or other connections to, China.[114] These individuals were highly likely to have difficulty accessing wealth held in that country for the purpose of gambling and, as such, would be reliant on local sources of cash to use at the River Rock and other casinos.

Much of the focus on this issue in the Commission's hearings was centred on the development of VIP facilities at the River Rock. It is clear from the record before me, however, that it was not the only casino in the Lower Mainland with an interest in recruiting VIP patrons. Mr. Duff referred in his evidence to the construction of VIP rooms at the Grand Villa and Starlight casinos and that he was hired away from the River Rock by the Parq Vancouver Casino in 2013, four years before it opened, to lead their efforts to "go after the VIP play."[115] Mr. Hiller indicated that the Starlight was the second most popular casino among VIPs and that it expanded its VIP room during his tenure as a BCLC investigator.[116] An affidavit sworn by Bill Lang, executive director of VIP for

112 Evidence of P. Ennis, Transcript, February 3, 2021, pp 116, 119; Evidence of R. Duff, Transcript, January 25, 2021, pp 29–30; Evidence of W. Soo, Transcript, February 9, 2021, pp 37–39.

113 Evidence of W. Soo, Transcript, February 9, 2021, p 38.

114 Evidence of W. Soo, Transcript, February 9, 2021, pp 33–37.

115 Evidence of R. Duff, Transcript, January 25, 2021, p 27.

116 Evidence of M. Hiller, Transcript, November 9, 2020, pp 10, 20.

Gateway Casinos & Entertainment Limited, attaches records indicating hundreds of thousands of dollars in "comps," including meals and hotel accommodations, provided to a VIP patron I will refer to as "Patron B"[117] between 2013 and 2017.[118] While I do not suggest that the VIP amenities at these casinos were equivalent in nature, scale, or outcomes to those at the River Rock, it is clear from this evidence that interest in attracting VIP patrons was an industry-wide phenomenon and not the exclusive domain of any one casino or service provider.

Increased Bet Limits

As service providers enabled the growth of large cash transactions in the gaming industry by seeking to attract VIP patrons to their casinos, BCLC did so by repeatedly raising maximum bet limits between 2008 and 2014.[119] Following the increase in bet limits to $5,000 in or around 2008, referred to earlier in this chapter, BCLC effectively raised high-limit room limits again in October 2012 by permitting players at private baccarat tables to bet all nine positions at the table, enabling a single patron to bet up to $45,000 on one hand.[120] Limits were raised again for high-limit rooms in January 2014 to $10,000 per hand[121] and an aggregate of $100,000 for patrons playing all positions at a private table,[122] meaning that a single player could wager up $100,000 on a single hand of baccarat. A further bet limit increase to $250,000 received some consideration within BCLC in 2014 but was ultimately not implemented.[123] In addition to these increases to high-limit betting limits, increases to limits applicable on the "main gaming floor," outside of high-limit areas, were also implemented during this time period.[124]

When asked about the motivation for these increases in bet limits, Michael Graydon, CEO of BCLC between 2008 and 2014,[125] agreed that they were motivated by a desire to increase revenue and attract new players to the province's casinos.[126] He explained that underlying these bet limit increases was a desire on the part of BCLC to compete with leading global gaming jurisdictions:[127]

117 The names of casino patrons have been anonymized throughout this Report in order to protect their privacy and because I did not conclude that it was necessary to identify them in order to fulfill my Terms of Reference. Unique identifiers (e.g., "Patron A" and "Patron B") are used in the place of patron names in order to identify where anonymized references to patrons in different parts of this Report refer to the same patron.

118 Exhibit 1040, Lang #2.

119 Exhibit 505, Lightbody #1, exhibit 22.

120 Ibid.

121 This increased betting limit was implemented on a trial basis in at least one casino in 2013: Exhibit 505, Lightbody #1, paras 40–44.

122 Exhibit 505, Lightbody #1, exhibit 22.

123 Ibid, para 55 and exhibit 21.

124 Ibid, exhibit 22.

125 Exhibit 576, Affidavit #1 of Michael Graydon, made on February 8, 2021, para 1.

126 Evidence of M. Graydon, Transcript, February 11, 2021, p 11.

127 Ibid.

> The lottery division in consultation with high-value players and with the service providers believed that there was an opportunity to be more competitive with other gambling markets like Macao, Las Vegas, Singapore and an opportunity to attract more high-value players to our business. And so [increased bet limits were] put in place for those purposes.

Mr. Graydon went on to indicate that the risks of these increases were considered and that BCLC reviewed the responsible gaming and anti–money laundering implications of these increases prior to their implementation.[128]

The potential impact of increased bet limits on the volume of cash present in a cash-dominant gaming industry is obvious. As high-limit VIP patrons were permitted to place higher bets on a single hand, they would be able to gamble greater amounts of money in shorter periods of time. Given the industry's continued reliance on cash, it was highly predictable that they would do so using cash, fuelling an increase in large cash transactions. The correlation between the increase in betting limits identified above and the growth in large and suspicious cash transactions discussed previously suggests that this is precisely what occurred during this time period. This conclusion is further supported by the evidence from a range of witnesses who were active in the industry throughout this time period and who connected increases in the volume of suspicious cash accepted by casinos to rising bet limits.[129] Mr. Beeksma, who has worked continuously in the industry since 2000, described his observations of the relationship between the two as follows:[130]

> [Bet limit increases] had a direct impact on [the quantity and size of cash buy-ins]. Casinos – for many years the biggest chip was a $500 chip. I don't remember the exact years or dates, but $1,000 chips were introduced and eventually $5,000 chips were introduced, and then VIP rooms were developed. And as these chips were introduced, the table limits increased as well in specific areas of the casino. So it's not at all surprising to me that there's a correlation there between the amount you can wager and how much cash was coming in.

Like Mr. Beeksma, I am not at all surprised that the size and frequency of cash buy-ins increased alongside betting limits. It is clear, in my view, that these increased betting limits played an important and predictable role in fuelling the increase in large and suspicious cash transactions in British Columbia's casinos between 2008 and 2015.

128 Ibid, p 12.

129 Evidence of P. Ennis, Transcript, February 3, 2021, pp 72–73; Evidence of L. Vander Graaf, Transcript, November 13, 2020, p 38; Evidence of G. Friesen, Transcript, October 28, 2020, p 6; Evidence of G. Friesen, Transcript, October 29, 2020, pp 1–2, 50–51; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 87–88; Evidence of J. Karlovcec, Transcript, October 30, 2020, p 126; Evidence of S. Lee, Transcript, October 27, 2020, p 18; Evidence of Steven Beeksma, Transcript, October 26, 2020, p 77; Exhibit 530, Ennis #1, para 15.

130 Evidence of Steven Beeksma, Transcript, October 26, 2020, p 77.

Role of Service Providers in Implementing Bet Limit Increases

In considering the role that BCLC played in increasing betting limits throughout this time period, it is important to bear in mind that BCLC was not solely responsible for determining how much a patron could bet at one time. While BCLC set maximum bet limits, service providers had the discretion to decide whether to permit betting up to those limits in the casinos they operated.[131] Mr. Lightbody described the shared responsibility for setting maximum betting limits as follows:[132]

> It is important to note that $100,000 for aggregate bets for one hand at a baccarat table was the upper limit that a Service Provider could offer to a player or players at a table. It is a Service Provider's decision whether to allow a player to bet the maximum bet based on their table bet risk management. I am not aware of how often or whether Service Providers ever allowed a patron to bet $100,000 on one hand of Baccarat.

I accept Mr. Lightbody's evidence that it is the responsibility of service providers to set bet limits applicable in the casinos they operate within the limits approved by BCLC. It is surprising to me, however, that Mr. Lightbody is unaware of whether service providers *ever* allowed a patron to bet $100,000 on a single hand of baccarat. I would not expect the CEO of BCLC to be kept apprised of the details of how service providers are setting bet limits in each of the province's casinos on a day-to-day basis. Given the magnitude of the increases in maximum betting limits implemented in 2014, however, and the money laundering and other risks associated with these changes, I would have expected that the CEO of the Crown corporation responsible for the conduct and management of gaming in British Columbia would have monitored their impact at least to the point of knowing whether they had ever been applied in practice.

It is apparent from the evidence of former Great Canadian staff members that the discretion to adjust betting limits within the maximums established by BCLC was exercised in casinos operated by Great Canadian.[133] While Great Canadian-operated casinos do not seem to have reflexively permitted betting up to BCLC-permitted maximums at all times in all casinos, it does not appear that the money laundering risk associated with permitting higher levels of betting in a cash-dominant environment, or whether players would be able to access the funds needed to play at these elevated levels from legitimate sources, factored into this decision-making process.[134] Mr. Duff, who was involved in such decisions as general manager of the River Rock, described this decision-making process in his evidence:[135]

131 Exhibit 505, Lightbody #1, para 53; Evidence of P. Ennis, Transcript, February 3, 2021, p 118; Evidence of R. Duff, Transcript, January 25, 2021, p 31; Evidence of W. Soo, Transcript, February 9, 2021, pp 46–47.

132 Exhibit 505, Lightbody #1, para 53.

133 Evidence of R. Duff, Transcript, January 25, 2021, pp 31–33; Evidence of P. Ennis, Transcript, February 3, 2021, pp 117–20; Evidence of W. Soo, Transcript, February 9, 2021, pp 46–48.

134 Evidence of R. Duff, Transcript, January 25, 2021, pp 31–33; Evidence of P. Ennis, Transcript, February 3, 2021, pp 117–20.

135 Evidence of R. Duff, Transcript, January 25, 2021, pp 31–33.

Q [A]m I correct that throughout your time at River Rock maximum bet limits were set by BCLC?

A Yes. The service providers can request to raise their limit, depending on the game type, depending on the year. Around the time of Chinese New Year casinos may want to increase their bet limit and things like that. But yes, the increases would be discussed at the corporate level and the operational level and sent to BCLC for approval.

Q And … once BCLC agreed or increased the maximum bet limit, it would be up to the individual casinos to decide whether to allow play up to that limit; is that correct?

A Yes. It depends on what type of risk that the casino wants to do. At River Rock we would – having a $50,000 limit on a baccarat table, we would allow at a casino – like when I was at the Hard Rock at the end of my career, that risk would have been too great to have.

Q Can you explain why that would be the case? Why – what could cause the risk to be too great? …

A Well, the risk comes into it – if you have more players playing it, then the house's risk goes down. If we have 20 players playing a certain level, say at $10,000, then we have 20 players that are going to win, going to lose, going to win, going to lose, and then our risk is taken down because we've got that many players. If you have just one or two players playing that and if they win right off the hop and they leave, well, we can't get that money back because we don't have any other players to generate that risk.

Q So you need enough players to sort of average out the wins and losses that you know the casino is going to come out on top; is that fair?

A Absolutely.

Q And … were you involved in making decisions at the River Rock about whether to allow play up to maximum bet limits?

A It was discussed. It was more of – from, again, the development team. It was discussed as to, I think we can put this risk up, and that I'd be part of those discussions, but it wasn't at a point where I was walking around the floor saying okay, I need $100,000 table there.

…

Q In the course of those discussions do you recall anyone ever suggesting … that River Rock should not allow play up to maximum BCLC limits

> because you weren't confident players would be able to access … the cash they would need from legitimate sources?
>
> A No, that was never suggested. If we wanted limits – if we suggested the limits and they said, you could go that way, we basically did.

January 2013 and 2014 Bet Limit Increases

I heard extensive evidence about the 2014 bet limit increases to $10,000 per hand and $100,000 table aggregate in high-limit rooms, referred to above. Mr. Lightbody, who was BCLC's vice-president of casino and community gaming at the time these bet limit increases were implemented, understood these increases to have arisen from a request from Great Canadian.[136] Mr. Lightbody explained that these increases were initially tested as a trial program in 2013.[137] From a business standpoint, it appears that this trial was a resounding success. In an email written to BCLC's senior executives on March 7, 2013, Mr. Lightbody identified increased bet limits as a "key driver" of the "simply outstanding results" achieved during the 2013 Chinese New Year period.[138] No reference is made in this email to the impact of these increases on large and suspicious cash transactions.[139]

BCLC subsequently made this trial increase of individual position bet limits permanent. At the same time, it also sought to increase table aggregate limits to $100,000 for private tables and to permit patrons to bet the entirety of the aggregate table limit from a single position.[140] While BCLC had not sought GPEB's approval for the trial increase in individual position limits to $10,000,[141] it did seek approval of the increase to table aggregate limits in or around June 2013.[142] Based on emails between Mr. Lightbody and Mr. Graydon dated December 12, 2013, it is apparent that, by December 2013, Mr. Graydon had grown impatient with the time it had taken to obtain a response from GPEB and the resulting missed "revenue and player development opportunities." Mr. Lightbody indicated an eagerness to see the proposal in place for the upcoming Chinese New Year holiday.[143]

GPEB ultimately concluded that its approval was not required for the increase in bet limits sought by BCLC.[144] As part of its review of BCLC's proposal, however, GPEB forwarded to BCLC a draft briefing note, requesting BCLC's input and feedback before it was submitted to the general manager of GPEB.[145] In addition to communicating GPEB's

136 Exhibit 505, Lightbody #1, para 40.

137 Ibid, paras 41–46.

138 Ibid, paras 45–46 and exhibit 14.

139 Ibid, exhibit 14.

140 Ibid, para 47 and exhibits 15, 22; Exhibit 543, MOF Briefing Document, Limits in Casinos (December 13, 2013), p 3; Evidence of J. Lightbody, Transcript, January 28, 2021, p 10.

141 Exhibit 505, Lightbody #1, para 41.

142 Ibid, para 47.

143 Ibid, exhibit 16.

144 Evidence of J. Mazure, Transcript, February 5, 2021, pp 56–57.

145 Exhibit 544, BCLC letter from Michael Graydon to John Mazure, re High Limit Table Changes (December 19, 2013); Exhibit 505, Lightbody #1, paras 50–51 and exhibits 19, 20.

position that its approval was not required to raise bet limits, the draft briefing note identified, among other potential repercussions of the proposed bet limit increase, the possibility that raising the limits would "[increase] the ability to launder large sums of money for current high limit games."[146] This does not appear to have caused BCLC to reconsider the proposed betting limit increase.

On December 19, 2013, two days after receiving this draft briefing note, Mr. Graydon wrote to John Mazure, then assistant deputy minister and general manager of GPEB.[147] In addition to registering his concern with the time it had taken to resolve this "very simple decision," Mr. Graydon advised that BCLC would proceed with the proposed bet limit increase for high-limit table games:[148]

> First, as it pertains to the decision to increase the betting limits on high limit tables, I have provided my approval for BCLC's Casino and Community Gaming Division to work with the casino service providers to implement changes to these limits so that they are in place prior to January 31, 2014, and in particular, at the Edgewater and River Rock Casinos.

Consistent with Mr. Graydon's evidence (referred to above) about BCLC's internal processes related to bet limit increases generally, Mr. Lightbody advised me of his understanding that the anti–money laundering implications of this betting limit increase were considered by BCLC:[149]

> The decision to increase the bet limits was not taken lightly. Before approving the increase in betting limits, I asked the project management team if the BCLC Security team had reviewed the proposal. I recall that I received confirmation from Mr. Darren Jang, the Manager of Casino Products, that the Security team was prepared for and comfortable mitigating any risk with the [anti–money laundering] systems in place at the time. I am not familiar with the process that the BCLC Security team went through to assess the money laundering risk associated with the increase in betting limits in 2014. I am not aware if the BCLC Security team reduced its analysis of the increase in betting limits to writing.

I do not doubt the evidence of Mr. Lightbody or Mr. Graydon that BCLC considered the impact of this decision on the risk of money laundering in the province's casinos. It is difficult to understand, however, given the rate at which acceptance of suspicious cash in Lower Mainland casinos was accelerating at the time, how the decision to make permanent a doubling of high-limit bet limits and to further increase aggregate table limits, in the absence of significant new measures to ensure the legitimacy of the funds used to play at these elevated levels, could have been viewed as prudent.

146 Exhibit 505, Lightbody #1, exhibit 20.

147 Exhibit 544, BCLC letter from Michael Graydon to John Mazure, re High Limit Table Changes (December 19, 2013).

148 Ibid.

149 Exhibit 505, Lightbody #1, para 54.

In my view, this decision reflects a lack of appreciation on the part of BCLC of the risks associated with the growing volume of suspicious cash that was by then readily apparent in the gaming industry and a concerning willingness to exacerbate that risk in the name of revenue generation.

Case Study: Qi Li

Qi Li is a former employee of the now-closed Edgewater Casino in downtown Vancouver. She left her employment in April 2015 at the conclusion of the events that I discuss below. I discuss the events involving Ms. Li as they provide insight into both the culture of gambling at the River Rock Casino in the mid-2010s and the mechanics of money lending on the ground.

Ms. Li, whose first language is Mandarin and who testified before the Commission through an interpreter, started working at the Edgewater Casino in 2007. She worked as a dealer on blackjack and baccarat tables. She had never worked in a casino before Edgewater.[150] She acknowledged receiving anti–money laundering (AML) training in the course of her employment.[151]

When she started working at the casino, Ms. Li was not a big gambler. She says she would gamble about 10 times per year, wagering a few hundred dollars each visit. Starting around 2011, her gambling habit grew, and she found herself wagering several thousands of dollars instead of hundreds. By 2014, she said, she was "crazy with gambling."[152] She would win or lose tens of thousands of dollars at one sitting, and paid for her gambling by drawing on her savings, her credit cards, and even her child's registered education savings plan. She testified that she could recall only one occasion when she bought-in to play at the casino with a bank draft – the rest of the time it was with cash.[153]

Ms. Li pointed to what she perceived to be a lack of controls over the use of cash, and the connection between lack of cash controls and gambling addiction and its consequences:[154]

> There are so many people at the time [who] came to visit the casino I was working at as well as when I went gambling … at River Rock Casino. Most of the customers or visitors, there

150 Evidence of Q. Li, Transcript, March 3, 2021, pp 3–4.
151 Ibid, p 82.
152 Ibid, pp 5–6.
153 Ibid, pp 6, 10–11.
154 Ibid, pp 6–7.

> were so many of them, most of them brought cash with them. Rarely there were people with bank draft. Including myself. I had changed several tens of thousands of dollars. The only requirement was to fill out a form. I also recall very clearly even though my profession was a dealer, but on the form I wrote down "housewife." But as the government … no one supervised it and no one manage[d] and control[led] that. Therefore, it caused so many people … like myself, we lost all of our life savings … I lost my dignity, I lost my self-worth, and I had to repay my debt for the rest of my life. That was the darkest time in my life.
>
> So, what I want to say is if the government interfere[d] or had a supervision measure taken and did not increase the maximum amount for each table, and also if some measures and supervision measures and control laid on the customers, many customers, including myself, bringing cash to casinos, then it would not cause a situation like it is today. At that time no supervision whatsoever. Everyone brought cash with them, and they … exchanged their money.

Ms. Li also offered her perspective on BCLC's decision to increase table limits:[155]

> Here I … eagerly want to express or give statement to BCLC to express my dissatisfaction with them. Casino is an entertainment place. From … when I started to visit casinos, there are only several thousands – $4,500 maximum. However, from 2012, 2013, up to now, [at] each casino here in town, the maximum amount has been increased higher and higher for the tables. Till later for the random tables, each table $50,000, $75,000, even $100,000. This is not entertainment anymore. These were the attractions to crazy gamblers.

Qi Li gambled at the River Rock Casino, where she played baccarat with high rollers in the VIP rooms. She testified that she and other women would sit with high rollers, sometimes getting tips or gifts from them during play, sometimes borrowing chips from them for her own play.[156]

155 Ibid, p 6.
156 Ibid, pp 12–17.

Two of the VIPs Ms. Li became friendly with are high rollers whom I will refer to as "Patron A" and "Patron B."[157] There were others. Ms. Li had a friendship with two other gamblers, Patron X and Patron Y, who would visit Vancouver from China to gamble for a few days at a time. Ms. Li would pick them up at the airport, assist them with travel and hotel arrangements, and run errands for them while they were in town.[158]

One errand that Ms. Li assisted Patron X and Patron Y with was going to a currency exchange to pick up cash for gambling. Her understanding was that Patron X, in particular, would have made arrangements in China to send money to the currency exchange. She would accompany him and Mr. W to the business, located on No. 3 Road in Richmond, in a taxi.[159] At the exchange, the men would get out, go into the business, and later return with "a small bag or plastic bag" containing cash. On returning to the River Rock, the cash in the bag would be exchanged for chips at the cashier. This type of transaction would occur daily when the gamblers were in town.[160] Ms. Li said she had no involvement in the transaction beyond taking the gamblers to the currency exchange (she says that she accompanied them to provide translation for the taxi) and was not aware of what their arrangements were with the exchange.[161]

During her examination by counsel for BCLC, Ms. Li said she was not concerned that the source of the cash being picked up was illicit; the cash was coming from what she perceived to be a sizable, licensed currency exchange operating out in the open. "Why would I have concern?" she asked.[162]

It was not unusual for the VIPs Ms. Li gambled with to buy-in with cash. In fact, her evidence was that this was the norm. Most of them, she said, "brought cash with big bags or small bags."[163] Nor was the process conducted in secret:[164]

157 The names of casino patrons have been anonymized throughout this Report in order to protect their privacy and because I did not conclude that it was necessary to identify them in order to fulfill my Terms of Reference. Unique identifiers (e.g., "Patron A" and "Patron B") are used in the place of patron names in order to identify where anonymized references to patrons in different parts of this Report refer to the same patron.

158 Ibid, pp 17–20.

159 Ms. Li recalled that the name of currency exchange contained the word "International," but not the full name: Evidence of Q. Li, Transcript, March 3, 2021, pp 23, 84.

160 Ibid, pp 22–24.

161 Ibid.

162 Ibid, pp 83–84.

163 Ibid, p 26.

164 Ibid, p 26.

> The cashier was right in the middle of the lobby. It was a public area. There are two doors. No matter which door a customer came in, people gambling in the lobby would be able to see them. Some customers, they brought lots of cash with them, and even there has to be a cash machine to count the cash for 10 minutes or even longer.

Ms. Li described how Patron A would approach other gamblers at a table and ask them to place bets for him while waiting for his cash to be counted. She and others happily complied, because, as she testified, Patron A was well known, including among staff at the River Rock, for his generous tips.[165]

For other high rollers playing in the River Rock VIP room, Ms. Li would do small favours and run errands. Often, those errands involved picking up packages. Although she testified that she did not ask questions about the contents of these packages, it is clear that she was receiving cash from cash facilitators on behalf of the VIP gamblers. On at least one occasion, as witnessed by Ms. Li, the VIP to whom she delivered a package took the package immediately to the casino cashier and exchanged the contents for chips.[166]

The sums of cash that Ms. Li delivered to the high rollers she gambled with were large. She recollected that some deliveries were of "big amounts" – defined by her as $200,000, $300,000, or even more.[167] Ms. Li described how one of these cash deliveries would occur:[168]

> Usually when I'd play cards with [Patron B] and usually – when he lost money, usually at that point he would go to washroom, make phone calls. He would leave the table. I don't recall the specific circumstance. Usually, he would come back and continue to play and then soon after he would say Coco,[169] go down and help me to pick up something. And then I would ask … where to pick up, and he would tell me the address. And I would ask what I would I pick up, and he said a bag, just a bag, and then I would go.
>
> Usually just walking out the lobby of River Rock close to the bus stop of the River Rock station, usually I would – just waiting there, someone would come to me. Usually … this person would ask me, are you Coco; I said … yes. I would be asked, did [Patron B] ask you to come. And I said yes, and then

165 Ibid, pp 26–27.
166 Ibid, pp 31–32.
167 Ibid, p 32.
168 Ibid, pp 32–33
169 Ms. Li acknowledged that she used the name "Coco" at this time: ibid, p 59.

> he would just say – give me the package and he would usually or – he or she would give [Patron B] a phone call and then I got the package, I took it back to casino and I left.
>
> Q Did you know the people that you were receiving the package from?
>
> A No, I don't. Usually, they were not the same person.

The people delivering the packages would change. They didn't introduce themselves and didn't wear any clothing or name tags that would identify them as working for a particular business. They usually drove expensive cars – BMWs, Mercedes-Benzes, even Bentleys. Most of the meetings would occur just outside the River Rock.[170] In return for running such errands for people like Patron B, Ms. Li would receive tips or gifts, or the high roller would place bets on her behalf.[171]

Deliveries of cash were not invariably made at the casino. Ms. Li told me of accompanying Patron X and Patron Y to a coffee shop to pick up cash.[172] A BCLC incident report documented Ms. Li arriving by taxi on one occasion with $300,000 in cash for Patron B.[173] On another occasion, she recalled travelling with another gambler in his vehicle and making a stop outside a business in Richmond to wait for a cash delivery.[174]

Ms. Li insisted that she was not aware of who was providing the VIPs with the cash she delivered. She was aware, from her work at Edgewater, that loan sharks would hang around the casino. She also observed "quite a number" of loan sharks at the River Rock. These people would hang around the casino for a few months, then disappear. They would not really play themselves but would become friendly with gamblers. If they observed someone losing, they would approach that person to see if they wanted a loan. Ms. Li did not take any loans herself, but not for want of trying – she was rejected by the loan sharks, she said, because she did not own any real property to offer as security.[175]

Ms. Li denied introducing any gamblers to loan sharks, but said that she may, on occasion, have discussed with gamblers she played with that a loan shark might be able to get them money.[176]

170 Ibid, pp 33–36.
171 Ibid, p 85.
172 Ibid, p 22.
173 Exhibit 673, Incident Report #IN20150017386 – April 2, 2015 [IR: April 2015], p 3.
174 Evidence of Q. Li, Transcript, March 3, 2021, p 46.
175 Ibid, pp 49–51.
176 Ibid, p 56.

One document was put before Ms. Li that suggested she had a more direct role in connecting gamblers with loan sharks. In May 2015, Paul King Jin, who is discussed later in this chapter, filed a notice of civil claim in BC Supreme Court seeking repayment of a loan of $250,000 said to have been made to the defendant, a Mr. Xu, in February 2015. In the notice of claim, it is asserted that Mr. Xu was introduced to Mr. Jin by a "Coco Li."[177]

Ms. Li denied, strongly, having made such an introduction, and also denied knowing Mr. Jin.[178] However, I have difficulty reconciling this denial with the fact of her name appearing in the pleading and with certain other facts that she acknowledged, including her familiarity with the defendant, Mr. Xu (she acknowledged gambling with him); that she had on occasion received cash deliveries for the defendant named by Mr. Jin in the notice of civil claim;[179] that she had suggested to others she gambled with that they might be able to borrow from a loan shark;[180] and her acknowledgement that she used the name "Coco" at the relevant time.[181]

In April 2015, BCLC assembled a list of suspicious incidents in which Ms. Li's involvement had been recorded.[182] Those transactions spanned a year and involved seven high-level players. BCLC made a decision to interview Ms. Li and contacted her for this purpose. However, a day later, on April 14, 2015, Ms. Li resigned from her employment at Edgewater. She was never interviewed by BCLC about those transactions.[183]

In April 2015, BCLC imposed a five-year, province-wide ban on Ms. Li. She left Canada for a time and returned to new employment in Alberta. Remarkably, one of the positions she took up on her return was as a card dealer at a casino in Calgary, a position for which she says she was licensed.[184]

Ms. Li's story is not a happy one. While not entirely blameless herself, she was clearly the victim of a gambling addiction, one that was exacerbated and amplified by playing with the kinds of high-rolling gamblers who frequented the VIP rooms at the River Rock.

177 Exhibit 674, Notice of Civil Claim – VLC–S–S–154010 – May 15, 2015, p 2.

178 Evidence of Q. Li, Transcript, March 3, 2021, pp 55–56, 60.

179 Ibid, pp 47–48; Exhibit 675, BCLC Banned Patron Subject Detailed Sheet, printed July 30, 2020; Exhibit 673, IR: April 2015.

180 Evidence of Q. Li, Transcript, March 3, 2021, p 56.

181 Ibid, p 9.

182 Exhibit 673, IR: April 2015; See also Exhibit 560, Affidavit #1 of Terrance Doyle, made on February 1, 2021 [Doyle #1], para 31.

183 Ibid, pp 4–5.

184 Evidence of Q. Li, Transcript, March 3, 2021, pp 54– 55; Exhibit 560, Doyle #1, para 31.

However, what is striking about Ms. Li's story is not her gambling, but that she, and others around her, appeared to deal with cash facilitators and gamble with large amounts of unsourced cash so easily and openly. Ms. Li was, according to BCLC records, the subject of 60 large cash transaction reports between February 2014 and April 2015 and 20 "unusual financial transaction" reports submitted to BCLC by Great Canadian when she resigned her position and was banned.[185] Ms. Li did not conduct her cash-running errands covertly. She described receiving packages of cash passed from car windows in front of the casino and delivering them to VIP gamblers right in the lobby. She did not describe any efforts to hide what she was doing, nor did she appear to face any scrutiny or intervention by casino staff, BCLC, or the regulator until April 2015.

2008–2013: Reactions and Response to Growth in Large and Suspicious Transactions

The remainder of this chapter will focus on the reactions and responses of GPEB, BCLC, service providers, government, and law enforcement to the growth in large and suspicious cash transactions in British Columbia's casinos. This discussion is divided into two parts, initially focusing on the reactions and responses observed between 2008 and 2013, and then considering the responses of these actors during 2014 and early 2015. The latter part of 2015 and later years are addressed in subsequent chapters.

The rise in large and suspicious cash transactions was identified early in its evolution by members of the investigative staff of both GPEB and BCLC. Employees of both organizations viewed this activity with concern, believing the funds used in these transactions to be the proceeds of crime and likely connected to money laundering. Both sought to communicate these concerns to others in the years that followed. The GPEB investigation division, in particular, made significant efforts to raise the alarm about the growth of suspicious transactions internally within GPEB as well as externally to BCLC, law enforcement, and government.

Between 2009 and 2013, each of the recipients of these warnings reacted in some way to the growing rate at which cash was being accepted in the province's casinos, though not always in direct response to these warnings. These reactions included efforts to develop policy responses and strategies to address the risks associated with these transactions; implementing alternative means of conducting casino transactions to enable the industry to transition away from cash; an intelligence probe carried out by

185 Exhibit 560, Doyle #1, para 31.

law enforcement to examine the sources of cash used in casino transactions; and efforts on the part of BCLC investigators to intervene directly in suspicious transactions. For a range of reasons, these efforts (which, as I discuss in Chapter 14, were not proportionate to the magnitude of the problem) failed to stem the flow of cash into the province's casinos, and the number and value of large and suspicious cash transactions in British Columbia's casinos continued to increase throughout this time period. The discussion that follows examines these efforts and their outcomes.

Initial Concerns of the GPEB Investigation Division, March 2009 Memorandum, and PGF Account Pilot Project

Based on the record before me, it appears that the first to recognize the nature and severity of the money laundering risk inherent in the rising large cash transactions that emerged in the province's casinos around 2008 were the members of the GPEB investigation division. Both Mr. Vander Graaf and Mr. Schalk told me that these transactions became a concern for the division in or around 2007 or 2008.[186] It is abundantly clear from the evidence before me that, from this point forward, until the terminations of Mr. Vander Graaf and Mr. Schalk in December 2014, the division rarely missed an opportunity to voice their concerns about these transactions and the risk they carried.

One of the early instances of this occurred at a 2008 GPEB meeting and was described by Mr. Vander Graaf:[187]

> In 2008, investigator Ed Rampone became concerned that there was a money laundering problem after seeing a $200,000 buy-in with cash that smelled like marijuana. At a GPEB Branch meeting in Victoria that year, Mr. Rampone stood up and said "ladies and gentlemen, we now have a money laundering problem in BC casinos." Deputy Minister Corinne McDonald and Mr. [Derek] Sturko [then assistant deputy minister and general manager of GPEB] were present at that meeting.

In his evidence, Mr. Schalk gave an account of this meeting generally consistent with Mr. Vander Graaf's[188] and identified Mr. Rampone as a former member of the RCMP IPOC unit.[189]

186 Exhibit 181, Vander Graaf #1, para 35, exhibit G; Evidence of J. Schalk, Transcript, January 22, 2021, p 109; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 51–52, 165–66; Evidence of L. Vander Graaf, Transcript, November 13, 2020, p 39.

187 Exhibit 181, Vander Graaf #1, para 37; see also Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 54.

188 Evidence of J. Schalk, Transcript, January 22, 2021, pp 141, 150.

189 Ibid, p 182.

2009 GPEB Audit, Registration and Investigation Memorandum

By 2009, the division's efforts to draw attention to this issue, which, according to Mr. Vander Graaf, included his persistent expressions of concerns to Mr. Sturko at GPEB management meetings,[190] appear to have inspired the first serious attempt to generate a policy response to this issue. Specifically, Mr. Sturko asked GPEB's audit, registration, and investigation divisions to identify options to address the risk of money laundering in the province's casinos.[191] In accordance with this request, the three divisions produced a memorandum dated March 16, 2009, which described the task assigned to them, and their conclusions:[192]

> The Audit, Registration, and Investigations Divisions have been requested to review and make recommendations for requirements, enforcement instruments, and enforcement methods in relation to the potential risk of money laundering in commercial gaming facilities. This has been done in conjunction with a review of the request by the British Columbia Lottery Corporation (BCLC) to allow Patron Gaming Fund (PGF) accounts in commercial gaming facilities.
>
> In order to mitigate and/or substantially reduce the potential risk in relation to this area, it is our recommendation and position that prior to even considering authorizing PGF accounts it is absolutely necessary for the Branch to define in a regulation and/or a term and condition of registration specific anti-money laundering requirements. These regulations would then become a legal requirement thus allowing regulatory enforcement, if necessary. Without these enforceable legal requirements, it is our position that the present risk in the British Columbia gaming environment is extremely high.

The Patron Gaming Fund accounts referred to in the memorandum are accounts available to casino patrons implemented on a pilot basis in 2009 as part of an effort to transition the industry away from cash. They are discussed in more detail below.

The memorandum produced by the GPEB audit, registration, and investigation divisions proposed, among other things, that the phrase "suspicious activity" be defined in a regulation and/or term and condition of registration and that service providers be required to refuse any transaction deemed suspicious according to this definition.[193] The proposed definition of "suspicious activity" included, but was not limited to, cash transactions exceeding $3,000 comprised only of $20 bills.[194] Among others, additional recommendations made in the memorandum included that the GPEB investigation division be given the authority to bar patrons from gaming facilities and that BCLC be designated a "service

190 Exhibit 181, Vander Graaf #1, para 38; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 53–54.
191 Exhibit 181, Vander Graaf #1, para 62; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 53–54.
192 Exhibit 181, Vander Graaf #1, exhibit R.
193 Ibid.
194 Ibid.

provider" and therefore required to be registered under the *Gaming Control Act* to ensure that GPEB inspectors would have the legal authority to inspect BCLC facilities.[195]

During his testimony, Mr. Sturko's recollection of the events that followed his receipt of this memorandum were limited.[196] He testified that the involvement of BCLC or government officials would have been necessary to implement many of the recommendations contained in the memorandum.[197] Mr. Sturko could not recall whether he had elevated the memorandum or any of its recommendations to his superiors in government[198] but said that he did not discuss the memorandum with service providers.[199] He testified that he did provide the memorandum to BCLC and that BCLC "had different views on some of" its contents, but he could not recall specifically with which portions of the memorandum BCLC disagreed.[200]

Some insight into BCLC's responses to these proposals can be found, however, in an email and attachment prepared by Bill McCrea, then GPEB's executive director of internal compliance and risk management.[201] The email refers to a conference call involving Mr. McCrea and Mr. Sturko, as well as a number of BCLC representatives, including Mr. Graydon and Mr. Towns, then BCLC's vice-president of corporate security and compliance.[202] The attachment to this email includes BCLC's commentary in response to GPEB proposals. The attachment reveals resistance on the part of BCLC to the suggestion that suspicious transactions be refused, rather than just reported. For example, the comments attributed to BCLC in response to a recommendation that transactions meeting the definition of suspicious activity be refused are as follows:[203]

> The FINTRAC requirement is to report, not refuse suspicious transactions. The only transactions that are currently refused are those where the information requirements are not met (ie no ID is provided)
>
> Most of the [Gaming Policy and Enforcement Branch] indicators are the same or similar to that specified by FINTRAC. However FINTRAC is clear that it's suggested list of indicators should be seen as suggestions for patterns of behaviour rather than specific signs of money laundering. The impact of refusing all transactions is uncertain and could lead to missing opportunities to detect money laundering, as well as probable loss of business and over-reporting to FINTRAC.

195 Ibid.

196 Evidence of D. Sturko, Transcript, January 28, 2021, pp 122–28.

197 Ibid, p 126.

198 Ibid, pp 122–27.

199 Ibid, p 129.

200 Ibid, pp 127–28.

201 Exhibit 511, Emails from Bill McCrea, re BCLC Money Management Material (July 8, 2009), with attachment.

202 Exhibit 517, Towns Affidavit, para 63.

203 Exhibit 511, Emails from Bill McCrea, re BCLC Money Management Material (July 8, 2009), with attachment, p 1.

Later in the same document, the following similar commentary is attributed to BCLC:[204]

> BCLC and our casino partners operate to FINTRAC requirements and do not refuse transactions except in very limited circumstances mainly related to lack of appropriate ID or the issuing of winners cheques.
>
> Reports of all suspicious transactions are made to FINTRAC, [GPEB], RCMP/IPOC and other relevant agencies.

While this document suggests resistance on the part of BCLC to refusing suspicious transactions, the record as to precisely why the recommendations set out in this report were not implemented is murky. What is clear is that BCLC did not accept GPEB's proposal that suspicious cash be refused, and GPEB did not pursue the proposal to the point of implementation. The March 16, 2009, memorandum and evidence regarding BCLC's response are significant. They demonstrate that, from early in the rise of suspicious transactions in the province's casinos, some within GPEB advocated a need to refuse suspicious transactions, while BCLC was hesitant to do so. As will become clear in the discussion that follows in this and subsequent chapters, this reflects a dynamic between the two organizations (or components of the organizations) that persisted for several years.

2009 PGF Account Pilot Project

Even though the March 16, 2009, GPEB memorandum identified its recommendations as necessary preconditions to "even considering authorizing PGF accounts"[205] and these recommendations were largely not implemented, PGF accounts were introduced as a pilot project in three casinos, the River Rock, Edgewater and Starlight, in late 2009.[206] Based on similar accounts in use in Ontario and Quebec, these accounts were intended for patrons gambling at elevated levels and permitted patrons to deposit funds into an account, withdraw them as needed for gaming, and re-deposit withdrawn funds for later play.[207]

The benefits of these accounts, according to Mr. Towns, included "reduc[ing] the levels of cash used in the casinos, enhanc[ing] player safety, reduc[ing] opportunities for cash facilitators, and reduc[ing] cash handling and reporting by Service Provider staff."[208] Mr. Sturko's evidence, while not inconsistent with that of Mr. Towns, placed greater emphasis on the role these accounts were intended to play in addressing money laundering risks:[209]

204 Ibid, p 6.

205 Exhibit 181, Vander Graaf #1, exhibit R.

206 Exhibit 517, Towns Affidavit, para 93 and exhibit 25.

207 Ibid, paras 91–92 and exhibits 22, 26.

208 Ibid, para 92.

209 Exhibit 507, Sturko #1, para 104.

> The development of PGF accounts was motivated partly by concerns about proceeds of crime and money laundering. There were also safety concerns related to customers walking into and out of casinos with large amounts of cash.

These accounts, which were voluntary, regardless of a patron's level of play,[210] were not popular in their original form. In the first seven weeks that they were available, only nine accounts were opened, all at the River Rock Casino.[211] Mr. Towns offered the following perspective on why these accounts initially attracted little interest:[212]

> To my recollection, because the 2010 Olympics were approaching, the PGF program was initially implemented on a trial basis only so as to limit impacts on Service Providers. The PGF pilot program accounts were very restrictive and the use of the accounts had limited initial success, in my view due to those restrictions. For example, the accounts could be funded only with wire transfers, bank drafts or certified cheques. It is also my recollection that opening a PGF account under the pilot program required an initial deposit of at least $10,000.[213]

Despite this limited initial uptake, the PGF account pilot, with some changes, was extended for an additional six months following the six months initially planned and was expanded to include the Grand Villa and Boulevard casinos.[214] PGF accounts, with additional modifications, eventually became a permanent part of British Columbia's gaming industry and one of the primary instruments relied on by BCLC in the coming years in its largely unsuccessful attempts to respond to the rise of suspicious cash in casinos.

Warnings from BCLC Investigator Michael Hiller

Just as Mr. Vander Graaf and his investigation division were warning GPEB's leadership about the risk of money laundering associated with rising large and suspicious cash transactions, similar warnings to BCLC's leadership had begun to emanate from that organization's investigative staff.

Mr. Hiller joined BCLC as an investigator in February 2009, following more than 28 years as a member of the RCMP, much of that time focused on drug crime and Asian organized crime.[215] After joining BCLC, Mr. Hiller was initially stationed at the River Rock. He was subsequently transferred to the Starlight Casino in 2011 before returning

210 Evidence of M. Graydon, Transcript, February 11, 2021, p 30; Evidence of T. Towns, Transcript, January 29, 2021, pp 174–75.

211 Exhibit 517, Towns Affidavit, exhibit 27, p 2.

212 Ibid, para 94.

213 Mr. Towns's evidence in this regard appears to describe PGF accounts as they existed following the extension of the initial six–month pilot project. PGF accounts could not be funded through bank drafts or certified cheques until after the pilot was extended: Exhibit 517, Towns Affidavit, exhibits 25, 29, 30.

214 Exhibit 517, Towns Affidavit, exhibit 29; Exhibit 507, Sturko #1, para 103.

215 Evidence of M. Hiller, Transcript, November 9, 2020, pp 2–3; Exhibit 166, Hiller #1, paras 3–6.

to the River Rock in 2014.[216] Mr. Hiller was transferred to Vancouver Island later in 2014, where he was responsible for several smaller facilities until his retirement in 2019.[217]

In his evidence, Mr. Hiller discussed his observations, from the beginning of his first assignment to the River Rock, of large cash transactions ranging from $80,000 up to several hundred thousand dollars in individual transactions.[218] He described the features of these transactions that caused him to identify them as suspicious:[219]

> First off, the large quantity of $20 bills which were frequently involved in these large cash transactions … It could be $50 bills and $100 bills, but certainly the large quantity of $20 bills, they were consistently bundled in a similar manner with elastic bands. There were other indicators such as deliveries of such cash to the casino and/or passing of such cash to the casino.
>
> There are indicators such as a VIP player already playing with chips, losing all the chips, making a cell phone call and then another delivery of money occurred. There were some times when I knew from my video review that the VIP player was out of chips at the table, had lost everything, met up with somebody in a nearby washroom on the floor, reappeared at the table and now had cash or chips to buy in again.
>
> Circumstances where a VIP player would leave the casino for a very short amount of time, get into a vehicle, drive a very short distance – and I should say prior to getting into the vehicle that player was without cash or chips, had lost maybe in the casino, but after driving a short distance, maybe around the block or just up the street, returned to the casino and now had a bag of cash to buy in. Those are some of the circumstances in which I would have reported.

Like Mr. Vander Graaf, and based in part on his law enforcement experience, Mr. Hiller almost immediately came to view these transactions with suspicion.[220] Moreover, Mr. Hiller quickly formed a belief as to how this activity could be connected to money laundering, even though the patrons engaged in these transactions were putting their funds at risk and often losing them.[221] Specifically, he believed that the patrons engaged in these transactions were obtaining the substantial quantities of cash they were using to buy-in at casinos from criminal organizations and were repaying those funds in China.[222] Mr. Hiller testified that he was familiar with this kind of money laundering typology from his experience as a police officer and so was quickly able to recognize its operation in the gaming environment.[223]

216 Exhibit 166, Hiller #1, para 6.

217 Ibid.

218 Evidence of M. Hiller, Transcript, November 9, 2020, p 10.

219 Ibid, pp 8–9; see also Exhibit 166, Hiller #1, para 15.

220 Evidence of M. Hiller, Transcript, November 9, 2020, pp 22–23.

221 Ibid, p 22.

222 Ibid, pp 22–23.

223 Ibid, p 23.

Mr. Hiller was not shy about sharing these suspicions with his supervisors. He testified that he persistently raised his concerns about the large amounts of suspicious cash being accepted by British Columbia casinos at monthly meetings of BCLC's investigative staff and that he believed his views were well understood by his managers.[224] In this regard, Mr. Hiller's evidence is corroborated by that of his fellow investigators, several of whom identified him as particularly vocal in expressing these concerns.[225] I am persuaded that Mr. Hiller was raising these concerns with his superiors from early on in his tenure and doing so persistently. According to Mr. Hiller, his efforts in this regard did not receive a warm response. His evidence was that he did not believe that his superiors liked hearing of his concerns, as they did not share his views.[226] While they would listen, Mr. Hiller's recollection was that they would say little in response or would advise him that his role as an investigator was to report suspicious activity and that BCLC could not turn patrons away based on suspicion alone.[227]

While Mr. Hiller testified that the frequency of his efforts to warn his superiors of the risks of suspicious transactions in the province's casinos waned after his first two years with BCLC,[228] it is clear that he continued to persistently raise his concerns to his superiors on some level through much of his tenure with BCLC. Mr. Hiller told me that he voiced these concerns with the superiors he reported to later in his tenure, including Brad Desmarais, who succeeded Mr. Towns as BCLC's vice-president of corporate security and compliance, and Robert Kroeker, who succeeded Mr. Desmarais.[229] Mr. Hiller offered the following example of an exchange he had with Mr. Towns following a speech by Mr. Graydon in December 2012, nearly four years after Mr. Hiller joined BCLC:[230]

> The day after Mr. Graydon's speech the conference continued, and I recall I spoke to Mr. Towns, BCLC's Vice President of Corporate Security and Compliance, in private before the presentations started. I expressed to Mr. Towns my dissatisfaction with Mr. Graydon's speech failing to address the reports of bags of cash coming into casinos. Mr. Towns asked me how could VIP players be considered to be money launderers when they put all their money at risk and usually lose it when gaming. I took from his comment that his view was that VIP patrons were legitimately engaging in gaming and had provided legitimate business occupations, so they could not be laundering money. I expressed to Mr. Towns my belief that VIP players were legitimate gamblers who have legitimate business occupations, but that I also believed the suspected cash facilitators who were supplying the VIP

224 Exhibit 166, Hiller #1, para 37; Evidence of M. Hiller, Transcript, November 9, 2020, pp 23–26.

225 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 44–45, 76; Evidence of S. Lee, Transcript, October 27, 2020, pp 35–36; Exhibit 78, Beeksma #1, para 54; Evidence of R. Alderson, Transcript, September 9, 2021, pp 14, 33.

226 Exhibit 166, Hiller #1, para 37.

227 Ibid, paras 39–41; Evidence of M. Hiller, Transcript, November 9, 2020, pp 26–33.

228 Exhibit 166, Hiller #1, para 37; Evidence of M. Hiller, Transcript, November 9, 2020, pp 24–25.

229 Evidence of M. Hiller, Transcript, November 9, 2020, pp 30–33.

230 Exhibit 166, Hiller #1, para 84.

> players and there were people behind the suspected cash facilitators who were associated with organized crime, and that those people were involved in money laundering. Mr. Towns disagreed, saying that BCLC did not have proof of that and did not have the authority to investigate what occurred outside of casinos. I understood his point, and we ended our conversation by agreeing to disagree. I recall that Mr. Towns and I had previously had a similar conversation but I cannot remember precisely when.

By 2014, as the rates of suspicious cash in the province's casinos approached their peak, Mr. Hiller received some indication that his theory as to how these suspicious transactions were connected to money laundering was correct. A confidential source that he considered reliable advised him that "major loan sharks were operating in BC casinos" and that "the vast majority of VIPs" in the province's casinos obtained the cash they used to gamble from "loan sharks" and repaid the funds in China.[231] Using this new information, Mr. Hiller renewed his efforts to persuade his superiors to take action. He prepared an incident report detailing this information in the iTrak system and encouraged his superiors, including Mr. Friesen, Mr. Karlovcec, Ross Alderson (former BCLC director of anti–money laundering and investigations), Kevin Sweeney (director of security, privacy, and compliance for BCLC's legal, compliance, and security division), Mr. Desmarais, and Mr. Kroeker to read it.[232] While Mr. Desmarais confirmed to Mr. Hiller that he had read the report,[233] none of these individuals ever commented on it in the iTrak system as he would have expected given the significance of the report.[234]

It is clear to me that Mr. Hiller began raising concerns within BCLC about the source of the suspicious cash increasingly present in the province's casinos from the beginning of his tenure with BCLC in 2009 and continued to do so in the years that followed. It is also clear that he identified and communicated to his superiors how this suspicious cash could be connected to money laundering even if the gamblers were putting their funds at risk and often losing. Mr. Hiller was not alone in his worries about these transactions. Mr. Vander Graaf and the members of the GPEB investigation division were persistently raising similar concerns within GPEB. As I discuss below, by 2010, the investigation division would begin to turn some of the focus of these efforts towards BCLC directly, adding their voice to Mr. Hiller's attempts to prompt his employer to take action to address these suspicious transactions.

2010–2011 GPEB Investigation Division Reports of Findings and Correspondence with BCLC

By 2010, the GPEB investigation division had begun documenting its concerns about large and suspicious cash transactions and other suspicious activity in reports of

231 Ibid, para 74.

232 Ibid, paras 74–75; Evidence of M. Hiller, Transcript, November 9, 2020, pp 51–52.

233 Evidence of M. Hiller, Transcript, November 9, 2020, p 52.

234 Ibid, p 51; Exhibit 166, Hiller #1, para 75.

findings.[235] These reports, prepared by GPEB investigators or investigation division managers,[236] detailed incidents and activity that were of concern to the division with focuses ranging from individual transactions to broad patterns of conduct spanning several years. The reports were routinely forwarded to the general manager of GPEB, often with the addition of commentary from Mr. Vander Graaf and/or Mr. Schalk.[237]

While the evidence before me is inconsistent as to whether the reports of findings themselves were forwarded to BCLC and, if so, to whom,[238] it is clear that the substance of some of these reports of findings were brought to the attention of BCLC through correspondence from the GPEB investigation division.

The contents of several of these reports of findings, and the correspondence they inspired, are discussed below. In addition to providing a record of the information forwarded to the general managers of GPEB, and in some instances BCLC, during this time period, these documents offer insight into the events taking place in the province's casinos at this relatively early stage of the growth of suspicious transactions in the gaming industry.

March 15, 2010, Report of Findings

A report of findings prepared on March 15, 2010, by Mr. Dickson, then the GPEB investigation division director of casino investigations for the Lower Mainland, detailed the activities of four patrons identified in the report as having "extensive histories of suspicious activities within Lower Mainland casinos."[239] The report described repeated instances of these patrons engaging in chip passing; receiving chips and cash from cash facilitators, including cash dropped off by vehicles following phone calls made by the patrons; and making large cash buy-ins – in some cases leaving the casino with chips immediately after buying-in, without play. In one instance described in the report, one of these patrons lost $300,000 playing baccarat before leaving the casino and making a phone call. A short time later, an individual arrived in a vehicle previously associated with cash facilitation and provided the patron with two plastic bags containing $299,670 in cash, which the patron used to buy-in.[240]

In the report, Mr. Dickson expressed concern that both service providers and BCLC seemed tolerant of this behaviour:[241]

235 Exhibit 181, Vander Graaf #1, paras 41–52, exhibits G–Q.

236 Ibid, para 41.

237 Ibid, para 41, exhibits G–Q.

238 Evidence of G. Friesen, Transcript, October 28, 2020, p 126; Evidence of J. Karlovcec, Transcript, October 29, 2020, p 92; Evidence of L. Vander Graaf, November 12, 2020, pp 77, 82–83; Evidence of J. Schalk, Transcript, January 22, 2021, p 147; Evidence of D. Sturko, Transcript, January 28, 2021, p 136.

239 Exhibit 181, Vander Graaf #1, exhibit H, p 1.

240 Ibid, exhibit H, p 2.

241 Ibid, exhibit H, p 5.

> It is evident that the service providers consider [the four patrons] important customers and are willing to accept the on-going issues with chip passing, inappropriate cash transactions and interacting with known loan sharks. However, what is troubling is BCLC's acceptance of these blatant violations of their own policies and the open use of loan sharks by these LCT patrons. In some instances these patrons are suspected of actually engaging in loan sharking activity, with no meaningful attempts by BCLC to sanction these individuals.

Mr. Dickson also expressed concerns that patrons believed to be engaged in cash facilitation, including one of the subjects of this report, were permitted to open PGF accounts.[242]

Mr. Dickson concluded the report with the following five recommendations:[243]

1. Any patron observed to engage in any activities consistent with loan sharking activities should be immediately removed from the venue and be subject to a Provincial barring by BCLC.

2. Any patron observed associating with a known loan shark or using the services of a known loan shark is to be immediately removed from the venue and be subject to a Provincial barring by BCLC.

3. BCLC should be required to conduct a thorough background check on all [PGF account] applicants, and have final approval of all applicants.

4. Any applicant for a [PGF account] that has a history of chip passing, suspicious cash transactions or loan sharking activities should be denied by BCLC.

5. BCLC needs to establish a determined number of warnings for patrons engaging in chip passing and cash transactions that BCLC determine not to be suspicious. When a patron exceeds this number, meaningful sanctions should be considered. [Emphasis in original.]

While Mr. Sturko, at the time of his testimony, did not recall seeing this report when it was written,[244] it is apparent from the report itself that Mr. Vander Graaf forwarded the report to Mr. Sturko with his own comments added on April 12, 2010, generally expressing agreement with what Mr. Dickson had written.[245] There is no evidence that this report or the recommendations made by Mr. Dickson were forwarded to anyone in government who was senior to Mr. Sturko.

242 Ibid, exhibit H, pp 6–7.

243 Ibid, exhibit H, p 9.

244 Evidence of D. Sturko, Transcript, January 28, 2021, pp 135–36.

245 Exhibit 181, Vander Graaf #1, exhibit H, pp 11–12.

GPEB Letter of April 14, 2010, and BCLC Response

Two days after Mr. Vander Graaf forwarded the March 15 report of findings to Mr. Sturko, Mr. Dickson, acting on Mr. Vander Graaf's instructions, sent a letter reflecting the report's contents to Doug Morrison, then BCLC manager of casino investigations, and copying, among others, Mr. Towns.[246] In the letter, Mr. Dickson identified "loan sharking and money laundering issues" as two of the "main priorities" of the investigation division and summarized the activity of the four patrons discussed in the report of findings. In his letter, Mr. Dickson did not include all the recommendations made in the report, but emphasized his view that cash facilitators, as well as patrons that associate with cash facilitators, should be barred from the province's casinos. Mr. Dickson also recommended that BCLC "impose meaningful sanctions on … chronic violators" of chip passing restrictions.

Though Mr. Dickson's letter was addressed to Mr. Morrison, Mr. Friesen (then BCLC's manager of corporate security and surveillance) responded on behalf of BCLC in a letter dated May 4, 2010.[247] In his letter, Mr. Friesen acknowledged that cash facilitation was a threat to the integrity of gaming and that BCLC would "take any and all action possible against those observed participating in this activity." Mr. Friesen went on to indicate that, of the patrons referred to in Mr. Dickson's letter, one was under investigation by the RCMP IPOC unit and was "on the 'Watch' category in ITrak," two had been provincially barred from casinos by BCLC, and the fourth was the subject of an investigation with the potential to lead to a provincial barring. He also outlined in detail a number of measures that had been put in place by BCLC to respond to the risks of cash facilitation and chip passing.

Despite his apparent agreement with Mr. Dickson as to the severity of the risks posed by cash facilitation, Mr. Friesen confirmed in his evidence before the Commission that BCLC did not adopt the suggestion of taking action against patrons that received funds from cash facilitators.[248] Mr. Friesen suggested that this approach was not viable, as the patron may have believed that they were receiving legitimate funds. Mr. Friesen asserted that that some level of investigation would be required before a patron could be sanctioned.[249] Asked if a patron who was observed receiving $200,000 in $20 bills in a grocery bag in the parking lot of a casino would be a sufficient basis for sanctioning that patron, Mr. Friesen responded that it would not:[250]

> Well, again, that requires some investigation. Again, we're talking about the origin of funds and being able to prove that in fact they are funds derived from crime – I'm sure that's where you're going – and we don't have sufficient information, and I don't have the authority to determine whether or not it's proceeds of crime.

246 Exhibit 108, Letter from Derek Dickson, re Loan Sharking/Suspicious Currency & Chip Passing (April 14, 2010).

247 Exhibit 109, Letter from Gordon Friesen, re Loan Sharking/Suspicious Currency and Chip Passing (May 4, 2010).

248 Evidence of G. Friesen, Transcript, October 28, 2020, p 106.

249 Ibid.

250 Ibid, pp 106–7.

Mr. Friesen vigorously resisted the notion that the features of large, suspicious cash buy-ins were sufficient to allow conclusions to be drawn about the legitimacy of the source of the cash used in those transactions. The following exchange is illustrative:[251]

> Q You said you couldn't accuse anybody without proof. Now, this Commission has before it evidence of really quite substantial cash buy-ins in the nature of 6- and $800,000 dollars predominantly in $20 bills ... and buy-ins in the $200,000 range with quite a degree of frequency, predominantly in $20 bills. Do you accept that that was happening during your tenure as manager?
>
> A Yes.
>
> Q Can you conceive of any legitimate source for that quantity of $20 bills?
>
> A Well, in the first place I think you have to consider the fact that it was definitely only wealthy people who were gaming in our casinos that had access to that type of cash. The other thing is that if they are wealthy, they may have legitimate sources for that type of cash. It is incumbent upon us to determine whether or not that suspicion is real.
>
> Q Sir, but I wasn't asking you about the wealth of the players; I was asking you about the source of the $20 bills. Can you conceive of any legitimate source, any scenario where somebody legitimately obtaining funds would do so in the manner of $800,000 in $20 bills?
>
> A Maybe they sold a house and it's revenue from that. Maybe they sold art or collectibles or maybe they got it from a legitimate banking source. I don't know. I have no idea.
>
> Q As manager did you conceive there was any possibility that these $20 bills that were being used to buy in came from the sale of a house or from a banking institution, a legitimate financial institution?
>
> A I could get it.
>
> Q I suppose you could, sir, but would you? If you needed $800,000 or $600,000 to conduct a financial [transaction], would you go to the bank and ask them to give it to you in 20s?
>
> A I don't know. It depends on circumstances. I have in the past. I got $20 bills. Undercover operations.
>
> Q For drug dealing?
>
> A Yes.

251 Ibid, pp 91–93.

As will become apparent in the discussion later in this chapter, Mr. Friesen's evidence in this regard is representative of the views of BCLC during this period. In their respective evidence, Mr. Friesen, Mr. Karlovcec, and Mr. Towns repeatedly expressed the view that BCLC could not take action to limit the receipt of highly suspicious cash in the absence of some determination by law enforcement that the cash was the proceeds of crime.[252]

October 1, 2010, Report of Findings

The activities of another high-limit patron raised concerns within the investigation division in the fall of 2010. On October 1, 2010, GPEB investigator Dave Willis authored a report of findings focused on transactions involving a patron I will refer to as "Patron C" at the Starlight Casino over the course of a month beginning on August 31, 2010.[253] Over the course of this month, Patron C bought-in for a total of over $3.1 million, including more than $2.6 million in $20 bills in at least 16 separate gaming sessions. Nearly all of these buy-ins were for $100,000 or more and several were for $200,000 or more. On September 3 alone, Patron C bought-in for more than $400,000, including over $375,000 in $20 bills. Mr. Willis's report indicated that Patron C had bought-in for an additional $808,000 in July and August 2010. Based on Patron C's activity, Mr. Willis concluded that it was highly likely that Patron C was laundering money and that he likely received this cash "from an individual involved in a criminal enterprise." Mr. Willis suggested "[a] policy change where any patron is not allowed to buy-in over $5,000 in $5, $10 and $20 bills in a 24-hour period."

In comments added to that report, both Mr. Schalk and Mr. Vander Graaf expressed general agreement with Mr. Willis's views as to the nature of Patron C's activities. While acknowledging that Patron C's activities were "at the high end," Mr. Schalk noted that transactions of the sort reflected in the report had "been [commonplace] for a number of years" and seemed to be growing with increased betting limits and greater popularity of high-limit rooms and tables. In his comments, Mr. Vander Graaf expressed concern that "high level players" were "given significant latitude" in casinos and opined that the funds used by Patron C were likely obtained from "loan sharks and organized crime figures." Mr. Vander Graaf connected this activity to money laundering in the following terms:

> Just because [Patron C] is losing at the Casino does not in any way mean that organized crime is not benefiting by loaning [Patron C] large amounts of $20 dollar bills through loan sharks. [Patron C] must still re-pay the loan sharks and money [launderers] the funds that he has borrowed and the organized crime groups would prefer cheques, wire transfer, value chips, real estate or at a minimum $100 dollar bills as re-payment. Organized

252 Exhibit 517, Towns Affidavit, para 59; Evidence of T. Towns, Transcript, January 29, 2021, pp 145–47, 165–68; Evidence of G. Friesen, Transcript, October 28, 2020, pp 57–58, 89–91, 145–46, 166–67; Evidence of G. Friesen, Transcript, October 29, 2020, p 11; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 106–9, 126–27, 131–32; Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 177–78.

253 Exhibit 507, Sturko #1, exhibit E.

> criminal groups would gladly pay a 5%–10% [fee] to [Patron C] for him to utilize the $20 dollar bills in the Casino environment. [Patron C] would repay the loan sharks and money [launderers] at a later time via any unknown means. Thus the laundering process is complete.

Like Mr. Willis, Mr. Vander Graaf also suggested action on the part of both BCLC and GPEB to respond to activity of the sort exhibited by Patron C:

> BCLC is responsible for Conduct and Managing Casino gaming in British Columbia through standard operating procedures and I believe, at a minimum, as a good corporate citizen they should re-assess their corporate responsibility in allowing these large amounts of $20 dollar bills to enter the casino environment. I am also of the opinion that the Gaming Policy and Enforcement Branch and specifically the General Manager, as being responsible for the overall integrity of gaming may have to introduce legislation with sanctioning powers to deter and prevent this type of suspected money laundering activity. A simple change of regulation with sanctioning authority regulating that Service Providers … not allow more that 5k in $20 dollar bills from a person in one day for betting in the casino could eliminate this particular high risk.

While Mr. Sturko had no recollection of receiving this report, the report itself indicates that it was forwarded to him on November 4, 2010.[254] There is no evidence before me indicating any reaction or response on his part.

GPEB Letter of November 24, 2010, and BCLC Response

As with the March 15, 2010, report of findings, Mr. Vander Graaf directed Mr. Dickson to write to BCLC regarding the matters detailed in the October 1 report.[255] On November 24, 2010, Mr. Dickson wrote to Mr. Friesen advising that the GPEB investigation division had "begun to see a dramatic increase in the amounts of small denomination Canadian currency used for large buy-ins by [large cash transaction] patrons within Lower Mainland Casinos" and detailing Patron C's activities during the month beginning on August 31, 2010.[256] Mr. Dickson shared with Mr. Friesen that Mr. Schalk had recently met with the officer-in-charge of the RCMP IPOC unit, and that the unit was "seriously concerned that the casinos are being used as a method to launder large sums of money for organized crime groups" and were "of the opinion that this is, without doubt, large scale money laundering." Mr. Dickson recommended that BCLC restrict buy-ins in $20 bills to a maximum of $10,000.

In his evidence, Mr. Dickson acknowledged that he understood that Mr. Friesen did not have the authority to implement this recommendation. He explained that he sent

254 Exhibit 507, Sturko #1, para 82 and exhibit E.

255 Exhibit 507, Sturko #1, exhibit E.

256 Exhibit 110, Letter from Derek Dickson, re Money Laundering in Casinos (November 24, 2010).

the letter, which was copied to others, including Mr. Towns and Mr. Sturko, in the hope that it would prompt GPEB and BCLC to work together to address the issues it raised.[257]

Mr. Friesen testified that, after receiving Mr. Dickson's letter, he brought it to Mr. Towns and that Mr. Towns directed "[t]hat we had to look into this matter and respond accordingly."[258] Mr. Friesen could not recall if BCLC began to monitor Patron C's play following receipt of this letter and did not know if Patron C continued to engage in activity consistent with that described in the letter.[259] BCLC did not, according to Mr. Friesen, pursue Mr. Dickson's recommendation that limits be imposed on the use of $20 bills.[260] Mr. Friesen indicated in his evidence that it was not within his authority to impose such a restriction, but also suggested that he did not believe that the measure proposed by Mr. Dickson would be effective because it would have no impact on the use of other denominations. Mr. Friesen also indicated that BCLC did not consider a more general limitation on cash buy-ins affecting all denominations at that time.[261]

Mr. Karlovcec wrote to Mr. Dickson on December 24, 2010, responding on behalf of BCLC to Mr. Dickson's letter to Mr. Friesen.[262] Mr. Karlovcec's letter indicated that BCLC corporate security was very sensitive to the risk of money laundering in gaming establishments and had instituted a rigorous anti–money laundering strategy, including "enhanced BCLC Policy and Procedures, comprehensive anti–money laundering training for service provider employees, and strict adherence to FINTRAC reporting guidelines." With respect to Patron C's activity, Mr. Karlovcec explained that BCLC had conducted a thorough review of Patron C's play between August 31 and September 29, 2010, identifying a total of $3,681,320 in buy-ins and $3,338,740 in total losses by Patron C during this period. Mr. Karlovcec also indicated that Patron C received one cheque for verified wins of $270,000 on September 7, 2010, which he used to buy-in on the following day. BCLC found no records of Patron C playing in any British Columbia gaming facility in August 2010 (prior to August 31) and had no record of the $808,000 in $20 bills thatMr. Dickson identified that Patron C had used to buy-in during August.[263]

Based on this and other information about Patron C known to BCLC, Mr. Karlovcec disputed the suggestion that Patron C could be engaged in money laundering:

> It is our opinion that based on [Patron C]'s history of play; his betting strategy; the fact he has requested only one verified win cheque during

257 Evidence of D. Dickson, Transcript, January 22, 2021, pp 34–35, 42–43.

258 Evidence of G. Friesen, Transcript, October 28, 2020, p 121.

259 Ibid.

260 Ibid, p 123.

261 Ibid, pp 123–24.

262 Exhibit 111, Letter from John Karlovcec, re Money Laundering in BC Casinos (December 24, 2010).

263 While Mr. Willis's report of findings indicated that these additional buy-ins took place in July and August, Mr. Dickson's letter (and consequently Mr. Karlovcec's response) suggested that they took place only in August.

> the dates in question; his win/loss ratio, and the fact his occupation states he owns a coal mine and commercial real estate firm, he does not meet the criteria that would indicate he is actively laundering money in British Columbia casinos.

Mr. Karlovcec also responded to Mr. Dickson's suggestion that the value of $20 bills that could be used to buy in by a patron be restricted to $10,000, rejecting it as "unrealistic" "[d]ue to the fact that gaming in the province is cash based."

Mr. Karlovcec's evidence was consistent with the views expressed in this letter. While he agreed that, at the time, several patrons were known to bring large volumes of cash into the province's casinos, he did not agree that this activity was "without doubt, large scale money laundering" as suggested in Mr. Dickson's letter.[264] In his testimony, as in his letter, Mr. Karlovcec relied on the patron's loss of almost all of the money used to buy-in to ground his skepticism that the patron could be laundering money.[265] Mr. Karlovcec did acknowledge, however, that he suspected that some of the large volumes of cash being accepted in the province's casinos were the proceeds of crime, but that he did not understand that any investigation had proved these transactions to be connected to money laundering.[266] Mr. Karlovcec identified the possibility that the funds used in large and suspicious transactions could be proceeds of crime as the basis for reporting them to FINTRAC and GPEB. He did not view this possibility as a basis to refuse or limit buy-ins from individual patrons.[267]

Mr. Towns was also asked about this letter during his testimony. Like Mr. Karlovcec, his views of Patron C's activity were consistent with those expressed in the December 24, 2010, response to Mr. Dickson's letter. Mr. Towns relied on the fact that Patron C lost most of the funds he used to buy in, his use of the single verified win cheque issued to him to buy in the day after it was issued, and his occupation as indicators that he was not engaged in money laundering.[268] In Mr. Town's words, "[I] f he was laundering money, he wasn't very good at it."[269] Asked whether he was aware of the possibility that Patron C could have borrowed these funds on the condition they be repaid in another form, possibly in another jurisdiction, Mr. Towns denied that such activity would amount to money laundering.[270] Like Mr. Karlovcec, Mr. Towns allowed that the cash could have been the proceeds of crime, but denied that BCLC had sufficient evidence that this was the case to justify barring the patron or declining his transactions.[271]

264 Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 104–5.
265 Ibid, pp 105–6.
266 Ibid, pp 99, 106–7.
267 Ibid, pp 99, 121.
268 Evidence of T. Towns, Transcript, January 29, 2021, p 162–66
269 Ibid, p 166.
270 Ibid, p 167.
271 Ibid, pp 166–68.

GPEB Letter of February 28, 2011

On February 28, 2011, at Mr. Vander Graaf's direction, Mr. Schalk wrote to Mr. Friesen in response to Mr. Karlovcec's letter of December 24, 2010.[272] In this letter, Mr. Schalk reiterated the concerns expressed in Mr. Dickson's letter and identified that, in the previous 10 months, "reported incidents of Suspicious Currency Transactions and Money Laundering [had] more than tripled over the previous year." Mr. Schalk also again advised that "[e]xperts in money laundering matters in the [p]olice community" were of the view that this activity represented money laundering.

Mr. Schalk explained in this letter how, in his view, large and suspicious cash transactions could be connected to money laundering, even though patrons like Patron C lost most of the funds they used to gamble. The money laundering typology suggested by Mr. Schalk closely mirrored the theory espoused by Mr. Hiller, discussed earlier in this chapter:

> Large quantities of $20.00 bill denominations will continue to be and are at present properly reported to the various authorities as "Suspicious Currency", both by the service provider and BCLC. Patrons using these large quantities of $20.00 currency buy-ins may not in some, certainly not all cases, be directly involved with or themselves be criminals. Regardless of whether they win or lose all of the money they buy in with, we believe, in many cases, patrons are at very least FACILITATING the transfer of and/or the laundering of proceeds of crime. Those proceeds may have started out 2 or 3 persons or groups removed from the patron using these instruments to play in the casino. Regardless, money is being laundered. The end user, the patron, MUST STILL pay back all of the monies he/she receives in order to facilitate his buy-in with $20.00 bills and for the person on the initial start of the facilitation process, the money is being laundered for him/her, through the use of the gaming venue. [Emphasis in original.]

Mr. Schalk concluded his letter with a prescient warning about the potential impact of these transactions and a further plea for action on the part of BCLC.

> If the flow of large quantities of small denomination cash is not stopped at the casino cash cage with those monies being refused, the integrity of gaming will continue to be jeopardized. This threat will increase into the future if something is not done. The dramatic increase in the reports as noted and the most recent media reports on these issues, underline the significance of this concern. Again, we ask that BCLC work to explore available options to find a solution to this significant threat that is constant and increasing in rapidity and volume.

272 Exhibit 112, Letter from Joe Schalk, re Money Laundering in BC Casinos (February 28, 2011); Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 115.

BCLC did not respond to Mr. Schalk's letter.[273] Asked whether he had communicated with "experts in law enforcement in money laundering," Mr. Karlovcec testified that BCLC was in contact with members of the RCMP IPOC unit at this time, but that he did not recall being told that the transactions of concern to Mr. Schalk amounted to money laundering.[274] Asked about Mr. Schalk's theory as to how these transactions were connected to money laundering, Mr. Karlovcec agreed that these transactions were suspicious, but that there was no proof that the typology proposed by Mr. Schalk was reflective of reality:[275]

> Q Sir, you were aware that Mr. Schalk held the view at this time that the player would have to pay back all the moneys he receives to buy in with 20s and that is how the money was being laundered; correct?
>
> A Well, this is Mr. Schalk's opinion. I don't discount what he's saying, but as I mentioned earlier, what evidence or proof do we have that that is actually taking place in these transactions? Again, it's suspicious. Hence the reporting to the regulators as well as the police for any action they felt appropriate.
>
> Q You had no reason to disagree with that suggestion in 2011, did you?
>
> A Well, what I'm saying is that if that's what Mr. Schalk believes, then what action is being taken by the authorities to actually prove that and make, if need be, an arrest or a seizure. I mean, it's a statement from him. I mean … in theory it sounds appropriate, but again, the proof.

Mr. Friesen, who was Mr. Karlovcec's direct superior at the time of this letter, expressed similar skepticism of Mr. Schalk's theory in his own evidence:[276]

> I can only speak for me personally, and this paragraph is highly speculative, it is his opinion and may not be my opinion. We were doing everything we possibly could in coordination with GPEB to find alternatives to cash and to strengthen our anti–money laundering program.

In my view, when viewed in the context of the exchange between Mr. Dickson and Mr. Friesen earlier the same year, and the responses to Mr. Hiller's concerns and the recommendations made in the memorandum forwarded to BCLC by Mr. Sturko in 2009, this exchange of correspondence between Mr. Dickson and Mr. Karlovcec reflects the emergence of a critical divide in the views of the GPEB investigation division and BCLC with respect to suspicious transactions during this period.

Despite their disagreement as to the actions required in response, there seems to be some level of consensus with respect to what was occurring in the province's casinos

273 Evidence of G. Friesen, Transcript, October 28, 2020, pp 137–38.

274 Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 123–24.

275 Ibid, p 126.

276 Evidence of G. Friesen, Transcript, October 28, 2020, p 137.

at the time. Both organizations were aware of extremely large cash transactions in the province's casinos, both agreed that these transactions were suspicious, and both agreed that there was, at least, a risk that they were the proceeds of crime.

Where it appears that the perspectives of the two organizations differed, however, was in their views of the significance of these facts. The GPEB investigation division clearly believed that these circumstances revealed that BC casinos were being used to facilitate money laundering and required immediate action in response. Conversely, BCLC seemed to draw a distinction between the acceptance of proceeds of crime and money laundering. Based on the evidence of Mr. Towns, Mr. Friesen, and Mr. Karlovcec, it appears that BCLC understood its anti–money laundering responsibilities to be limited to preventing money laundering only if it took place entirely within a casino. Outside of these circumstances, BCLC seems to have understood that it was not necessary, or not permitted, for BCLC to take steps to mitigate the risk that casinos were accepting proceeds of crime and facilitating money laundering, in the absence of some kind of direction or confirmation from law enforcement. As I discuss below and in subsequent chapters, this attitude guided the actions, and inaction, of BCLC in the years that followed.

2010 Meeting Between Mr. Coleman, Mr. Vander Graaf, and Lori Wanamaker, and Robert Kroeker's Review

By the end of 2010, as the investigation division's efforts to move GPEB's general manager and BCLC to take action in response to large and suspicious cash transactions in the province's casinos seemed to generate little traction, Mr. Vander Graaf had an opportunity to raise his concerns directly to Mr. Coleman, the minister responsible for gaming. Mr. Vander Graaf met with Mr. Coleman, and his deputy minister, Lori Wanamaker, at the GPEB Burnaby offices in December 2010.[277] The accounts of this meeting offered by its three participants are not entirely consistent. Ms. Wanamaker's recollection of the encounter was limited,[278] and Mr. Coleman[279] and Mr. Vander Graaf[280] disagreed as to some of the details of the conversation. This is unsurprising, given that it appears the meeting was quite brief[281] and occurred more than a decade ago. It is clear from the evidence of both Mr. Coleman and Mr. Vander Graaf, however, that the discussion focused on the issue of large and suspicious cash transactions in casinos.[282] I accept that Mr. Vander Graaf communicated his

277 Evidence of L. Wanamaker, Transcript, April 22, 2021, pp 6–8; Evidence of R. Coleman, Transcript, April 28, 2021, pp 110–14; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 103–7; Exhibit 181, Vander Graaf #1, paras 132–35.

278 Evidence of L. Wanamaker, Transcript, April 22, 2021, pp 6–8.

279 Evidence of R. Coleman, Transcript, April 28, 2021, pp 110–14.

280 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 103–7; Exhibit 181, Vander Graaf #1, paras 132–35.

281 Evidence of L. Wanamaker, Transcript, April 22, 2021, p 6.

282 Evidence of R. Coleman, Transcript, April 28, 2021, pp 110–14; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 103–7; Exhibit 181, Vander Graaf #1, paras 132–35.

reservations about these transactions to Mr. Coleman and Ms. Wanamaker. Given the evidence of the persistence with which Mr. Vander Graaf voiced his concerns during this time period, it is difficult to imagine that he would have met with the sitting minister responsible for the industry without having done so.

Based on Mr. Coleman's evidence, the information provided to him by Mr. Vander Graaf likely conflicted with advice he received about the state of BCLC's efforts to combat money laundering around this time. Mr. Coleman described in his evidence, for example, attending a briefing – which appears to have taken place in July 2010[283] – in which he was advised that BCLC had "one of the best [anti–money laundering] regimes … in the business," a consistent theme in BCLC's messaging to government:[284]

> Over the years they've continued to improve their standards, and I recall a briefing a few years ago where an outside counsel and an inside counsel were complimentary of BCLC having one of the best regimes in the system or in the business. I think BCLC has continuously concentrated on making sure they have a person who is an internal person to do compliance and they have the people in place. They have a team of the board that actually follows these things regularly and looks for opportunities to improve.

Despite these assurances from BCLC, it appears that Mr. Coleman and Ms. Wanamaker took Mr. Vander Graaf's warnings seriously and quickly acted to assess the state of anti–money laundering measures in the province's gaming industry. Mr. Coleman described the steps that he and Ms. Wanamaker took after the meeting as follows:[285]

> [A]fter that meeting we met again, Ms. Wanamaker and ourselves and … whoever else we had, and we came to the conclusion that we needed to have another set of eyes look at this, because I hadn't been on the file for a while, and decided to hire someone to go in and take a look at how we could improve on large cash transactions policies, procedures, all of those things. How we could deal with the large amounts of $20 bills and how we could move away from cash and that became a report.

Mr. Coleman and Ms. Wanamaker selected Robert Kroeker, then the province's director of civil forfeiture, who would later go on to hold executive positions with both Great Canadian and BCLC, to conduct an independent review of anti–money laundering strategies in British Columbia's gaming facilities.[286]

283 Exhibit 934, BCLC Minutes from the Board Meeting (July 23, 2010); Exhibit 935, BCLC Board Meeting July 23, 2010 Presentation regarding AML and FINTRAC; Evidence of R. Coleman, Transcript, April 28, 2021, pp 152–55.

284 Evidence of R. Coleman, Transcript, April 28, 2021, pp 69–70.

285 Ibid, p 114.

286 Ibid; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 80–81; Evidence of L. Wanamaker, Transcript, April 22, 2021, p 11.

Mr. Kroeker's Summary Review

Mr. Kroeker's review commenced in January 2011 and culminated in a report to government delivered in draft form in February 2011. The final version of the report was published in August 2011.[287] The report articulated the purpose and scope of the review as follows:[288]

> The purpose of the review is to advise the Minister on specific issues related to gaming integrity in the province.
>
> The Minister directed that a review be undertaken of the measures employed by BCLC and GPEB aimed at protecting gaming facilities from organized criminal activity. The review was conducted at a high level and was intended to determine what policies, practices and strategies were in place. Opportunities for improvement were to be identified. The scope of the review was not intended to provide an in-depth analysis of the extent to which existing policies and procedures were adhered to by BCLC or GPEB, or the robustness of GPEB's monitoring of BCLC's efforts aimed at preventing criminal activity at gaming facilities.

According to the report, the methods employed by Mr. Kroeker in conducting his review included the following:[289]

- Interviews of employees of BCLC and GPEB, senior law enforcement officers, and an independent consultant with expertise in anti–money laundering compliance and forensic auditing;
- Review of documents produced by GPEB and BCLC;
- Site tour of a large gaming facility, including discussions with two gaming facility operators; and
- Review of literature, media reports, reports on the B.C. lottery system and the proceedings of a Canadian symposium on money laundering

Mr. Vander Graaf was among those interviewed by Mr. Kroeker.[290] Mr. Vander Graaf could not recall all of the details of this discussion,[291] but testified that he recommended to Mr. Kroeker that patrons be required to declare the source of the funds used in transactions in casinos[292] and that BCLC and GPEB should be housed

287 Exhibit 141 (previously marked as Exhibit B), Summary Review Anti–Money Laundering Measures at BC Gaming Facilities (February 2011) [Summary Review]; Evidence of R. Kroeker, Transcript, January 25, 2021, p 87; Evidence of L. Vander Graaf, Transcript, November 13, 2020, p 164; Exhibit 181, Vander Graaf #1, para 72, exhibit V; Evidence of D. Scott, Transcript, February 8, 2021, pp 7–8.

288 Exhibit 141, Summary Review, p 6.

289 Ibid, p 7.

290 Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 145; Evidence of R. Kroeker, Transcript, January 25, 2021, p 82.

291 Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 146.

292 Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 120–21; Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 145.

within separate ministries.[293] Mr. Kroeker recalled Mr. Vander Graaf recommending that limits be placed on the number of $20 bills that a patron could use in a single day[294] and that "service providers should have the same obligations as a bank."[295] Mr. Kroeker acknowledged during his testimony that he did not understand exactly what service providers having the "same obligations as a bank" would have entailed but understood that those obligations would have related to customer due diligence.[296]

Mr. Vander Graaf had the opportunity to provide further feedback to Mr. Kroeker in the form of comments made on a draft of Mr. Kroeker's report.[297] In his comments, which he provided to Mr. Kroeker after the draft had already been forwarded to the responsible minister, Mr. Vander Graaf expressed his view that "[t]he two main reasons for concern in BC Casinos have been and will continue to be Loan Sharking and Money Laundering." Mr. Vander Graaf offered a number of suggestions, including the following:[298]

- A Ministerial directive limiting the use of large volumes of $20 bills to $10,000–$20,000 daily;
- Casinos should not pay patrons out by cheque, at least in instances of large cash buy-ins followed by minimal play;
- For large buy-ins, patrons should be strongly encouraged, incentivized or directed to use patron gaming fund accounts, funded through electronic funds transfers from Canadian banks or credit unions;
- GPEB investigations staff should be present on site in casinos, as is the Ontario Provincial Police in Ontario casinos, to make on-site inquiries regarding the origin of cash used in casino transactions and the identities and backgrounds of casino patrons;[299] and
- Selective targeted enforcement action on individuals by law enforcement with the assistance and support of the GPEB Investigations Division.

In his report, Mr. Kroeker concluded that "BCLC, in terms of policies and procedures, has a robust anti–money laundering regime in place" and that "GPEB has the required level of anti–money laundering expertise and is capable of discharging its responsibility to provide oversight as it relates to anti–money laundering and associated criminal activities at gaming facilities."[300] Despite these generally positive findings, the

293 Evidence of L. Vander Graaf, Transcript, November 13, 2020, p 121.

294 Evidence of R. Kroeker, Transcript, January 25, 2021, p 82.

295 Ibid, pp 83–84.

296 Ibid, pp 83–84.

297 Exhibit 181, Vander Graaf #1, para 76, exhibit V.

298 Ibid, exhibit V.

299 In his oral evidence, Mr. Vander Graaf clarified that he envisioned GPEB investigators performing this function alongside police officers. He testified that he "did not see the regulatory staff [GPEB] doing that at the time themselves": Evidence of L. Vander Graaf, Transcript, November 13, 2020, p 101.

300 Exhibit 141, Summary Review, p 15.

report identified opportunities for BCLC, GPEB and the Province to enhance the gaming industry's anti–money laundering regime.

The recommendations focused on BCLC were as follows:[301]

1. BCLC, in consultation with GPEB, should revise its buy-in / cash-out policy to allow for cash-outs to be paid by cheque, where cash-out cheques clearly and unequivocally indicate that the funds are not from gaming winnings.

2. BCLC should enhance training and corporate policy to help ensure gaming staff do not draw conclusions about the ultimate origin of funds based solely on the identification of a patron and his or her pattern of play. Training and business practices should result in gaming staff having a clear understanding that the duty to diligently scrutinize all buy-ins for suspicious transactions applies whether or not a patron is considered to be known to BCLC or the facility operator.

3. BCLC holds the view that gaming losses on the part of a patron provide evidence that the patron is not involved in money laundering or other related criminal activity. This interpretation of money laundering is not consistent with that of law enforcement or regulatory authorities. BCLC should better align its corporate view and staff training on what constitutes money laundering with that of enforcement agencies and the provisions of the relevant statutes.

4. Gaming is almost entirely a cash business in B.C. This presents opportunities for organized crime. Transition from cash transactions to electronic funds transfer would strengthen the anti-money laundering regime. BCLC, in consultation with GPEB, should take the steps necessary to develop electronic funds transfer systems that maximize service delivery, create marketing opportunities, and are compliant with anti-money laundering requirements.

The four recommendations focused on GPEB included:[302]

1. Adopting the perspective that registration, audit and enforcement / investigations lie on a compliance continuum and making sure the branch structure, including reporting relationships, supports this integrated approach.

2. Developing an annual unified registration, audit and investigations plan that sets out and co-ordinates compliance objectives and priorities for each year.

301 Ibid, p 3.

302 Ibid, pp 3–4.

3. Formally involving the police agencies of jurisdiction, including those with specific anti–money laundering and organized crime mandates, in annual enforcement objective and priority planning.

4. Establishing more formal contacts and relationships with governance and enforcement agencies and associations in jurisdictions with large, long-standing gaming industries.

The following final two recommendations made by Mr. Kroeker, were directed at the provincial government:[303]

1. Engaging an independent firm with expertise in establishing electronic funds transfer processes and procedures to assist with the creation of an electronic funds transfer system that delivers a high degree of service to patrons, is marketable, and is fully compliant with anti–money laundering standards found in the financial sector. This firm should also be utilized to assist with ensuring the structure and conduct of future anti–money laundering reviews not only measure conformity with anti-money laundering legislation and regulations, but also help BCLC and GPEB to go beyond regulatory compliance to meet financial sector best practices.

2. Creating a cross agency task force to investigate and gather intelligence on suspicious activities and transactions at B.C. gaming facilities. The task force would report out on the types and magnitude of any criminal activity it found occurring in relation to gaming facilities in B.C. This information would help guide any additional actions that may be required.

While some of Mr. Kroeker's recommendations were aimed at reducing the gaming industry's reliance on cash, he did not recommend, as suggested by Mr. Vander Graaf, that restrictions be placed on the use of $20 bills. In his evidence, Mr. Kroeker explained that the focus of his recommendations was cash reduction generally.[304] He offered the following rationale for not focusing on $20 bills specifically:[305]

> Well, from my experience and what I knew at the time, I felt that if you simply banned one denomination, you were inviting people with bad intent to simply switch to other denominations, 50s, 100s or smaller denominations. I didn't see it being a problem solely around $20 bills. It was a problem of a massive amount of cash coming in and only being allowed to use cash.

303 Ibid, p 4.

304 Evidence of R. Kroeker, Transcript, January 25, 2021, p 82.

305 Ibid, pp 82–83.

By the time that Mr. Kroeker's report was delivered to government, Shirley Bond, then newly appointed as solicitor general and minister of public safety, had replaced Mr. Coleman as minister responsible for gaming.[306] Decision-making as to whether and how to implement Mr. Kroeker's recommendations fell within Ms. Bond's portfolio.[307] Ms. Bond's evidence was that she "agreed to all of the recommendations."[308] In this regard, Ms. Bond's reaction was similar to that of then-Premier Christy Clark, who testified that she also reviewed Mr. Kroeker's report and that her initial reaction was that all of Mr. Kroeker's recommendations should be implemented.[309]

Ms. Bond went on to testify, however, that the advice she received from the public service was that while the first nine of Mr. Kroeker's recommendations could be implemented quickly, implementation of the tenth – creation of a cross-agency task force to investigate and gather intelligence on suspicious activities and transactions at British Columbia gaming facilities – would be more costly and complex.[310] Ms. Bond was advised that, while the first nine recommendations should be implemented immediately, the tenth should be delayed until the impact of the first nine were known. She directed that the recommendations be implemented in accordance with this advice.[311] Ms. Bond's evidence was that, while the cost and complexity of the tenth recommendation were factors in this decision, her "primary consideration" was an interest in taking steps that could have an immediate impact.[312]

IPOC Engagement and 2011 Intelligence Probe

Mr. Kroeker's recommendation to establish a cross-agency task force to investigate and gather intelligence on suspicious activities and transactions at BC gaming facilities was not the first recognition of the need for greater law enforcement engagement in the gaming industry. As discussed in Chapter 9 in the few years prior to Mr. Kroeker's review, this need had been recognized in proposals to reform the Integrated Illegal Gaming Enforcement Team (IIGET), in an IIGET threat assessment and in an internal RCMP intelligence report. The need was also recognized in Mr. Clapham's proposals to establish a casino unit in the Richmond RCMP and discussions between GPEB, the RCMP, and the province's Police Services Division in and around 2010, resulting in a draft decision note suggesting the creation of a 40-officer task force within the Combined Forces Special Enforcement Unit (CFSEU) dedicated to money laundering and cash facilitation at legal gaming venues.[313]

306 Evidence of C. Clark, Transcript, April 20, 2021, pp 14–15; Evidence of S. Bond, Transcript, April 22, 2021, pp 53–54.

307 Evidence of S. Bond, Transcript, April 22, 2021, p 64.

308 Ibid, p 65.

309 Evidence of C. Clark, Transcript, April 20, 2021, p 98.

310 Evidence of S. Bond, Transcript, April 22, 2021, pp 73–76; Exhibit 888, Advice to Minister, Confidential Issues Note, Anti–Money Laundering Review (August 24, 2011).

311 Evidence of L. Wanamaker, Transcript, April 22, 2021, p 15; Exhibit 888, Advice to Minister, Confidential Issues Note, Anti–Money Laundering Review (August 24, 2011).

312 Evidence of S. Bond, Transcript, April 22, 2021, pp 74–75.

313 Evidence of K. Begg, Transcript, April 21, 2021, pp 51–57; Exhibit 181, Vander Graaf #1, paras 130–31 and exhibit NN; Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 13–17.

At almost the same time that Mr. Kroeker began his review, however, an existing law enforcement unit was taking an interest in the growing suspicious activity in the province's casinos. As discussed in detail in Chapter 39, the RCMP IPOC unit commenced an intelligence probe into suspicious transactions in British Columbia casinos in January 2011. The background and details of this intelligence probe are described below.

IPOC Engagement in Gaming Industry Prior to 2010

While the IPOC unit does not appear to have had significant engagement in the province's gaming industry prior to the 2011 intelligence probe, this lack of engagement was not for want of information. BCLC began forwarding reports of suspicious transactions to IPOC in or around 2004,[314] and as early as 2008 the GPEB investigation division began consulting with the RCMP IPOC unit about its concerns regarding large cash transactions in the gaming industry.[315]

Based on the evidence of Mr. Hiller, it appears that this information sparked some level of interest in the industry on the part of IPOC in 2009. In or around February of that year, Mr. Hiller was one of two BCLC investigators tasked with liaising with law enforcement on behalf of BCLC,[316] which involved providing police with information about suspicious activity occurring in the province's casinos.[317] Mr. Hiller gave evidence that, as part of these duties, he regularly responded to requests for information from IPOC about casino patrons.[318] Mr. Hiller would also sometimes receive information from IPOC about patrons.[319]

These efforts, perhaps in conjunction with their interactions with GPEB, seem to have inspired some interest on the part of IPOC in investigating this activity. Mr. Hiller explained as follows:[320]

> I had a meeting at River Rock with members of the Integrated Proceeds of Crime Unit ("IPOC") in 2009. During this meeting, I took RCMP Staff Sergeant Rudy Zanetti and his team into the surveillance room at River Rock, showed them STRs and surveillance video footage, and then also showed them River Rock's VIP room. The Director of Surveillance for Great Canadian Gaming Corporation ("GCGC"), Pat Ennis, was also present.
>
> Following this meeting, IPOC expressed interest in receiving information from BCLC casino investigators so that it could investigate

314 Evidence of T. Towns, Transcript, January 29, 2021, pp 140–41.

315 Evidence of J. Schalk, Transcript, January 22, 2021, pp 181–82.

316 Exhibit 166, Hiller #1, para 21.

317 Ibid, para 22.

318 Ibid, paras 49–50 and exhibits C, D; Evidence of M. Hiller, Transcript, November 9, 2020, pp 34–35.

319 Evidence of M. Hiller, Transcript, November 9, 2020, p 36.

320 Exhibit 166, Hiller #1, paras 23–24.

> suspicious activity that we observed. I told them that I would work additional hours in order to assist them in this effort. However, I observed little follow through from IPOC following its expression of interest and the idea of having police surveillance conducted at River Rock seemed to simply fade away over time. My understanding is that IPOC did not have enough members to undertake this new effort.

Renewed IPOC Interest in Suspicious Activity in Casinos in 2010

While Mr. Hiller's engagement with IPOC in 2009 did not seem to lead to any significant investigation, it appears that the unit's interests in suspicious transactions in casinos was renewed the following year. Mr. Vander Graaf testified that, in 2010, GPEB increased its engagement with IPOC, including regular meetings between IPOC's leadership and Mr. Schalk, Mr. Dickson, and sometimes Mr. Vander Graaf himself, in an effort to "generate interest in what was taking place in casinos."[321] Mr. Dickson testified that GPEB also increased its information-sharing with IPOC in 2010:[322]

> We also, starting in 2010, developed a relationship with the RCMP Integrated Proceeds of Crime Unit and met with them, shared information with them in terms of the reports. We also shared our operational reports with them, so they were getting to read the investigators' reports, and that continued on for several years.

These efforts seem to have coincided with Barry Baxter, then an inspector with the RCMP, joining IPOC and developing his own interest in the activity taking place in the gaming industry. After conducting a file review upon joining the unit, Mr. Baxter became concerned about the quantity of $20 bills accepted in the province's casinos.[323] As discussed below, this was reflected in comments made by Mr. Baxter to the media and ultimately led Mr. Baxter to direct IPOC to commence an intelligence probe into suspicious transactions in the gaming industry.

Mr. Baxter's Comments to the Media and Mr. Coleman's Response

Mr. Baxter's views on the large cash transactions becoming increasingly prevalent in the province's casinos at the time he joined IPOC were made clear in comments published by the media in early 2011. On January 4 of that year, CBC News attributed the following quotations to Mr. Baxter, the accuracy of which Mr. Baxter confirmed in his evidence before the Commission:[324]

321 Exhibit 181, Vander Graaf #1, paras 101–2.

322 Evidence of D. Dickson, Transcript, January 22, 2021, p 12.

323 Evidence of B. Baxter, Transcript, April 8, 2021, pp 21–22.

324 Evidence of B. Baxter, Transcript, April 8, 2021, pp 50–51; Exhibit 823, Media Excerpts Money Laundering in Casinos – various, 2011.

> "Police became aware of the activities after the fact," said Inspector Barry Baxter, who is with the RCMP's integrated proceeds of crime section. "We're suspicious that it's dirty money," Baxter told CBC News. "The common person would say this stinks, there's no doubt about it. The casino industry in general was targeted during that time period for what may well be some very sophisticated money laundering activities by organized crime."

This article was published shortly before the end of the second of Mr. Coleman's three separate tenures as minister responsible for gaming and Mr. Coleman was asked to comment on Mr. Baxter's views in a January 10, 2011, radio interview.[325] Even though, at this point, Mr. Coleman had recently heard similar concerns from Mr. Vander Graaf and had initiated, or was in the process of initiating, Mr. Kroeker's review, his responses during this radio interview indicated clear disagreement with Mr. Baxter:[326]

> Q Well, just in closing … we've been told by the RCMP, a Barry Baxter, that they're suspicious it's dirty money. Given that, will you give the enforcement branch some new tools, instructions to tighten up because of those concerns?
>
> A Well, first of all, let's deal with Mr. Baxter, because he's offside with some of the messaging I got from the RCMP last week when I asked them the question, and they're having a look at the comments that he made within the policing because they don't feel that it … was basically reported … the quote … or the comment was reported at a level that made … that actually was correct with regards to his comment about money laundering.
>
> Q He said that we're suspicious it's dirty money, the common person would say this stinks, there's no doubt about it.
>
> A Yeah, I know what he said. I don't agree with him and neither do all the superiors of his in the RCMP. And that's why I said to them, okay, guys, we're going to look at this. These comments came from you, I want them backed up … but I also want them … as we back them up let's find out how we can do things better.

In his evidence before the Commission, Mr. Coleman clarified that he did not personally speak with anyone in the RCMP regarding Mr. Baxter's comments, but that his staff would have and that he would have been briefed on what they had learned.[327] It is clear from the affidavit of former RCMP Assistant Commissioner Craig Callens, in evidence before me, that then-Director of Police Services Kevin Begg did indeed contact

325 Evidence of R. Coleman, Session 2 Transcript, May 14, 2021, pp 14–16; Exhibit 1024, CBC Interview with Rich Coleman (January 10, 2011).

326 Evidence of R. Coleman, Session 2 Transcript, May 14, 2021, pp 15–16; Exhibit 1024, CBC Interview with Rich Coleman (January 10, 2011), pp 6–7.

327 Evidence of R. Coleman, Session 2 Transcript, May 14, 2021, pp 17–29.

the RCMP about Mr. Baxter's comments and that Mr. Callens had advised Mr. Begg that the manner in which Mr. Baxter's comments were made was inconsistent with past practice and existing protocols.[328]

It is also clear from Mr. Callens's affidavit, however, that he did not comment on the contents of Mr. Baxter's statements in this conversation with Mr. Begg.[329] As such, it does not appear that Mr. Coleman's disagreement with Mr. Baxter was based on information provided by the RCMP in response to Mr. Baxter's comments. This is consistent with Mr. Coleman's evidence, who acknowledged that this disagreement was based on his "feeling" about what the views of Mr. Baxter's superiors would be, rather than actual knowledge of those views:[330]

> Q Okay. I want to just follow up on that because you're saying here: "I don't agree with him and neither do all the superiors of his –"
>
> A As I said, I probably got too broad in that statement in that interview saying that.
>
> Q Was there one or any superior or member of the RCMP who disagreed with them that you knew of?
>
> A It was a general comment because my relationship with the RCMP in briefings was that they were – it was just my feeling that his superiors wouldn't agree with what he said or how he [said] it. I mean, he may have permission to do the interview, and I don't doubt – I don't question that. However, it was some pretty broad comments that captured everything as being one thing and that is that all of this – any large cash transaction was stinky in BC casinos and … my briefing level was different than that. So, I would have thought that anybody informed wouldn't agree with that broad of a statement as well.
>
> Q You used the word "felt" and "feeling" two times there. You said it was your feeling that people would have seen it that way. But … looking back at this now, do you agree that's a guess? You didn't have any information to support that?
>
> A That was my opinion at the time.
>
> Q Okay. I know you characterize it as an opinion but you're saying as if – do you agree with me you're putting it at line 17 as a statement of fact: "I don't agree with him and neither do all the superiors of his in the RCMP."
>
> A Yeah.

328 Exhibit 1022, Affidavit #1 of Craig Callens, sworn on May 12, 2021, para 5.

329 Ibid, para 8.

330 Evidence of R. Coleman, Session 2 Transcript, May 14, 2021, pp 58–59.

> Q Is he that – let me cut to the chase –
>
> A Yeah, I totally understand and I probably misspoke a little bit too far in an interview where the interview was a bit aggressive and maybe – I don't know. I can't remember going – I can't go back ten-plus years and say what the background was of the statement I made in an interview that lasted for seven minutes. Basically, that was my feeling at the time and my opinion at the time, and I based it on historical relations that I had with the RCMP when I made that comment.
>
> Q You think it was unfair to Mr. Baxter to say what you said there?
>
> A Yeah, it may have been unfair to Mr. Baxter.

I agree with Mr. Coleman's assessment that his comments were unfair to Mr. Baxter. Moreover, they posed a real risk of misleading the public into believing that there was no basis for concern about suspicious transactions in the province's casinos at a time when Mr. Coleman had good reason to believe that there was cause to be worried about the origin of the funds used in those transactions, and he had just initiated an independent review focused on money laundering in the province's casinos.

2011 IPOC Intelligence Probe

The concerns underlying the comments made by Mr. Baxter to CBC News also motivated him to direct the officers under his command, with the assistance of GPEB,[331] to commence an intelligence probe into suspicious transactions in casinos.[332] Based on their observations in the course of this intelligence probe, the officers involved developed a belief that the funds being accepted as part of large cash transactions in casinos were the proceeds of crime[333] and in January 2012, prepared an operational plan proposing further investigation and other action by IPOC.[334] The IPOC unit was soon disbanded, however, and the operational plan was never executed. Despite the continued acceleration of large and suspicious cash transactions in the province's casinos, and repeated communications about these transactions from GPEB and BCLC to law enforcement, the gaming industry would not see significant law enforcement engagement on this issue again until 2015.

The intelligence probe and the observations of the officers involved, as well as the proposed operational plan and ultimate disbanding of IPOC are addressed in detail in Chapter 39 of this report.

331 Exhibit 145, Barber #1, paras 51–57; Evidence of R. Barber, Transcript, November 3, 2020, pp 17, 40–43.

332 Evidence of B. Baxter, Transcript, April 8, 2021, pp 25–30.

333 Evidence of M. Paddon, Transcript, April 14, 2021, pp 16–18; Exhibit 760, Casino – Investigational Planning & Report – IPOC (January 30, 2012); Exhibit 759, Casino Summary & Proposal – IPOC – December 2011

334 Exhibit 760, Casino – Investigational Planning & Report – IPOC (January 30, 2012).

Appointment of Doug Scott as General Manager of GPEB and Development of an Anti–Money Laundering Strategy

In June 2011, as the IPOC intelligence probe was ongoing, Doug Scott was appointed assistant deputy minister and general manager of GPEB, shortly after he retired from a 20 year career with the RCMP.[335] Mr. Scott replaced Sue Birge, who had held the role on an interim basis since Mr. Sturko's departure in December 2010.[336] During his tenure with GPEB, Mr. Scott was made well aware of the concerns of the GPEB investigation division regarding large cash transactions accepted in the province's casinos. Mr. Scott testified that he first learned of this concern within days of his arrival and that he periodically received reports of findings prepared by the investigation division while he was in this role.[337] Hie testified that his views on this issue were generally consistent with those of the investigation division.[338] While he did not think that activity described in the investigation division's reports of findings "was definitively money laundering," he believed that casinos were likely accepting proceeds of crime and that "this was a very serious problem that [GPEB] needed to address."[339] Mr. Scott indicated to me that the "prevention of wrongdoing," including money laundering, in the gaming industry was identified as GPEB's top strategic priority early in his tenure as general manager and remained at the top of GPEB's priorities until he left the Branch in September 2013.[340]

Implementation of Mr. Kroeker's Recommendations

By the time of Mr. Scott's appointment, Mr. Kroeker's report had been completed and delivered to government, but not yet released publicly. Mr. Scott's evidence was that government had already decided to accept all of the report's recommendations by the time he joined GPEB and that it was GPEB's responsibility, along with BCLC, to implement those recommendations.[341]

Though it was not Mr. Scott's decision to accept them, he indicated to me that he generally agreed with Mr. Kroeker's recommendations, with one exception.[342] Mr. Scott disagreed with Mr. Kroeker's recommendation that casinos pay out patrons by cheques that included an indication that the funds represented by the cheque were not from gaming winnings.[343] Mr. Scott rooted his concerns about this recommendation in his recent experience with the RCMP and his understanding of the limits of law enforcement capacity at that time:[344]

335 Exhibit 557, Affidavit #1 of Douglas Scott, made on February 3, 2021 [Scott #1], paras 5–9.

336 Exhibit 527, Affidavit #1 of Sue Birge, made on February 1, 2021, para 8; Exhibit 507, Sturko #1, para 6.

337 Evidence of D. Scott, Transcript, February 8, 2021, pp 6–7, 17–18; Exhibit 557, Scott #1, para 34.

338 Exhibit 557, Scott #1, para 35.

339 Ibid.

340 Ibid, paras 17–18 and exhibit 1; Evidence of D. Scott, Transcript, February 8, 2021, pp 10–12.

341 Exhibit 557, Scott #1, paras 20–21; Evidence of D. Scott, Transcript, February 8, 2021, pp 7–8.

342 Exhibit 557, Scott #1, paras 22–23.

343 Ibid.

344 Ibid, para 23.

> My concerns about the first recommendation arose from my past experience investigating commercial crime as an RCMP officer. I understood this recommendation was made to ensure that there was an audit trail for police to follow, but I knew that the RCMP did not have capacity to follow the trails.

Mr. Scott went on to confirm that, despite his concerns, this recommendation was implemented through the creation of "convenience cheques" issued in limited amounts.[345]

While Mr. Scott generally agreed with Mr. Kroeker's recommendations and pursued their implementation, he testified that he did not believe, at the time, that they would be sufficient to stem the flow of suspicious cash into the province's casinos. Mr. Scott's evidence was that he shared these views with Ms. Wanamaker, then the deputy minister to whom Mr. Scott reported, along with his belief that GPEB needed to develop a strategy to address this issue.[346] According to Mr. Scott, Ms. Wanamaker advised him that he should "go build that strategy."[347]

GPEB Anti–Money Laundering Cross-Divisional Working Group and Development of an Anti–Money Laundering Strategy

In order to coordinate GPEB's efforts to respond to money laundering risks in the gaming industry, including through the implementation of Mr. Kroeker's report, Mr. Scott established an "anti–money laundering cross-divisional working group" within GPEB early in his tenure.[348] The "strategic statement and focus" of this working group was as follows:[349]

> The gaming industry will prevent money laundering in gaming by moving from a cash based industry as quickly as possible and scrutinizing the remaining cash for appropriate action. This shift will respect or enhance our responsible gambling practices and the health of the industry.

In his affidavit, Mr. Scott described the function and composition of the working group in the following terms:[350]

> Starting in the summer of 2011, I [led] the establishment of GPEB's Anti–Money Laundering Cross-Divisional Working Group ("X-DWG"), in collaboration with my team. The X-DWG was established to develop AML solutions and assess proposals from BCLC and the industry. It was also the decision-making body responsible for developing and executing

345 Ibid.

346 Ibid, para 30; Evidence of D. Scott, Transcript, February 8, 2021, pp 64, 102–3.

347 Evidence of D. Scott, Transcript, February 8, 2021, pp 64, 102–3.

348 Ibid, pp 12–14, 111; Evidence of L. Wanamaker, Transcript, April 22, 2021, p 15; Exhibit 557, Scott #1, paras 27–29.

349 Exhibit 181, Vander Graaf #1, exhibit O, p 1.

350 Exhibit 557, Scott #1, paras 27–28.

> GPEB's AML strategy. The X-DWG was chaired by the Executive Director of Internal Compliance and Risk Management, Bill McCrea.
>
> I wanted the whole of GPEB to work creatively to address the issue of cash in casinos and in order to accomplish this, all relevant divisions within GPEB were included in X-DWG, namely the Assistant Deputy Minister's Office (my office), Audit and Compliance, Registration and Certification, Investigations, Policy/Responsible Gambling, and Internal Compliance and Risk Management ("ICRM").

The cross-divisional working group became the point of contact for communications on anti–money laundering issues between GPEB and BCLC.[351] Following the creation of the working group, the investigation division ceased corresponding directly with BCLC, as it had in 2010 and earlier in 2011 because, according to Mr. Vander Graaf, the division was encouraged to be "team players" and wanted to be seen as such.[352] Instead, the division focused on providing the working group with materials related to the reduction of cash through the implementation of cash alternatives[353] though Mr. Vander Graaf made clear in his evidence that he did not believe that this approach would be effective in reducing the volume of cash entering casinos.[354]

Anti–Money Laundering Strategy

Over the course of the latter part of 2011 and the beginning of 2012, and in keeping with Ms. Wanamaker's response to Mr. Scott's concerns about the limits of Mr. Kroeker's recommendations, the cross-divisional working group developed a three-phase anti–money laundering strategy. The three phases of this strategy and the initial timeline for implementation, as set out in Mr. Scott's evidence, are described below:[355]

> Phase 1 Cash Alternatives (Service Provider Intervention) – Commencing April 2012
>
> This phase included BCLC working with service providers to promote cash alternatives, especially to high-volume players, and contemplated incentives for player use of cash alternatives. BCLC was also to work with service providers to develop enhancements to the cash alternatives program and market them to patrons, while GPEB continued to gather more information on the nature of cash entering casinos and analyze these funds.

351 Evidence of L. Vander Graaf, Transcript, November 13, 2020, p 166.

352 Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 118.

353 Ibid.

354 Ibid, pp 118–19.

355 Exhibit 557, Scott #1, para 40.

> Phase 2 Operator Intervention – Commencing May 2013
>
> This phase involved BCLC and service providers becoming more actively engaged in the promotion of cash alternatives with high-volume patrons, using a customer relationship management approach. This phase also contemplated introducing enhanced customer due diligence and analysis capacity to better inform AML activity in the industry.
>
> Phase 3 Regulator Intervention (GPEB) – Commencing December 2013
>
> This phase contemplated that if the issue of large amounts of suspicious cash persisted, GPEB would undertake direct regulatory action as part of the regulatory process in preventing money laundering and included GPEB conducting interviews of patrons who continued to bring suspicious cash into casinos.

Mr. Scott clarified that phases one and two were intended to continue in perpetuity and would not cease when the subsequent phase began. He also confirmed that casino patrons' use of the cash alternatives referred to in the descriptions of these phases was intended to be voluntary.[356] Mr. Scott acknowledged that he did not expect that these voluntary programs would significantly impact the amount of suspicious cash entering the province's casinos:[357]

> [M]y view of this was the cash alternatives were an important baseline because we had an industry that was a hundred percent cash by mandate of government and we had $6 billion coming in, as I had mentioned. That was a key issue that we were dealing with. And it's very challenging, in my view. My view at the time [was] it would be very challenging to identify or discriminate between AML or – or pardon me, not AML, but suspicious cash or proceeds of crime coming in and the vast majority of cash that was coming in was legitimate.
>
> So, in my view it was a key foundational piece to give legitimate players the option to go to what I viewed would be much more convenient ways to buy in. In order to clear your cash out and make less – the more suspicious cash sort of rise to the fore, if you will. So … cash alternatives were never intended to – or never expected, I should say, not "intended." It was never expected that they would be used by the money launderer.
>
> So, it didn't surprise me at all that it didn't change the amount of suspicious cash coming in. Rather it was intended to set the baseline for moving legitimate players into a more convenient to get the cash level down because the high level of our risk, as I mentioned before, was just the volume of cash coming in.

356 Evidence of D. Scott, Transcript, February 8, 2021, pp 28–30.

357 Ibid, pp 31–32; see also Exhibit 557, Scott #1, para 42.

Mr. Scott explained as well that he did not expect the actions described in this strategy to be the entirety of the industry's anti–money laundering response.[358] He gave evidence that "GPEB expected and encouraged BCLC intervention with high-risk players throughout implementation of the strategy."[359] There is some evidence that, prior to the scheduled implementation of phase three, Mr. Scott did, in fact, encourage BCLC to intervene with high-risk players by interviewing patrons about the source of the cash they used to gamble in the province's casinos.[360] According to Mr. Scott, BCLC did not act on this encouragement during his tenure.[361] In contrast, Mr. Graydon, BCLC's CEO at the time, had no recollection of Mr. Scott encouraging BCLC to interview patrons about the source of their funds[362] and in fact suggested that he believed this to be GPEB's responsibility.[363] I find, however, that Mr. Scott's evidence is credible in this regard, in part because of its consistency with that of Mr. Vander Graaf, who gave evidence of delivering a similar message alongside Mr. Scott during Mr. Scott's tenure.[364]

Mr. Scott also made clear in his evidence that phase three of the strategy was intended to proceed only if necessitated by the failure of phases one and two to sufficiently address the issue of suspicious transactions in casinos.[365] He explained the rationale for delaying phase three as follows:[366]

> [P]hase three … is the portion where GPEB intervenes directly, and phase 3 is intended to drive that – a couple of key things in the context. One being that BCLC had control over the operational response to money laundering, and so the overall strategy itself asserts GPEB. It's the mechanism by which I intended to assert GPEB's influence over the money laundering response at the strategic level. And so, it was understood at this time that BCLC still had responsibility and would aggressively address the suspicious cash that was coming in at the time while GPEB was working on this overall strategic response. And so, by so doing we were able to sort of engage ourselves and influence [anti–money laundering], where before we were absent other than to express concerns.
>
> What phase three contemplates is engaging directly, virtually taking over the operational response that BCLC up to that point had been responsible for. So, if it was unnecessary, if the [suspicious transactions reports] had been driven down to levels that … we could consider reasonable, then in my view we wouldn't need to go to phase three because

358 Exhibit 557, Scott #1, para 42.

359 Ibid, paras 41–42.

360 Ibid, paras 73–74; Evidence of D. Scott, Transcript, February 8, 2021, pp 54–56.

361 Exhibit 557, Scott #1, paras 73–74; Evidence of D. Scott, Transcript, February 8, 2021, pp 54–56.

362 Evidence of M. Graydon, Transcript, February 11, 2021, pp 51, 86–87.

363 Ibid, pp 50–51.

364 Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 82–86; Exhibit 181, Vander Graaf #1, para 116.

365 Evidence of D. Scott, Transcript, February 8, 2021, pp 28–30; Exhibit 557, Scott #1, para 42.

366 Evidence of D. Scott, Transcript, February 8, 2021, pp 29–30.

> phase three was a significant cultural shift and involved reconsideration of responsibilities as had been traditionally outlined over the 10 years of the Gaming Control Act.

With respect to the content of phase three, it is clear that the action anticipated during this phase included, but was not necessarily limited to, interviews by GPEB investigators of casino patrons engaged in suspicious transactions. Patron interviews are mentioned explicitly in the description of phase three above and were identified by Mr. Scott as part of this phase multiple times in his evidence.[367]

During his testimony, Mr. Scott was asked to explain why the strategy contemplated delaying this measure until phase three of the strategy.[368] Specifically, Mr. Scott was questioned as to why GPEB investigators would not have begun interviewing patrons immediately as part of phase one, which was to include efforts "to gather more information on the nature of cash entering casinos and analyze these funds."[369] In response, Mr. Scott testified that both BCLC and the GPEB investigation division were resistant to the idea of GPEB investigators interviewing patrons about suspicious transactions.[370]

According to Mr. Scott, BCLC took the position that it was the Lottery Corporation that had primary responsibility for "dealing with" suspicious transactions.[371] Mr. Scott testified that Mr. Graydon was opposed to GPEB investigators interviewing patrons, as Mr. Graydon viewed interviews of patrons as properly within the purview of BCLC.[372] Mr. Graydon did not recall taking this position with Mr. Scott.[373]

Mr. Scott testified that Mr. Vander Graaf was opposed to the investigators under his direction interviewing casino patrons because GPEB investigators lacked both the authority and the resources to interview patrons.[374] This is consistent with Mr. Vander Graaf's evidence that he did not see it as the role of GPEB investigators to interview patrons[375] and that there were safety concerns associated with their doing so.[376] Mr. Scott's evidence was that he was not entirely convinced of Mr. Vander Graaf's view that GPEB investigators lacked the authority to interview casino patrons and that he intended to seek a legal opinion regarding the scope of their authority, but did not do so before departing from his role with GPEB in September 2013.[377]

367 Evidence of D. Scott, Transcript, February 8, 2021, pp 33, 36, 116; Exhibit 557, Scott #1, para 40.

368 Evidence of D. Scott, Transcript, February 8, 2021, p 33.

369 Ibid, pp 32–34.

370 Ibid, pp 34–35, 39–41, 48, 139–41; Exhibit 557, Scott #1, paras 43–45.

371 Evidence of D. Scott, Transcript, February 8, 2021, pp 39, 139–40; Exhibit 557, Scott #1, paras 43–45.

372 Exhibit 557, Scott #1, para 44.

373 Evidence of M. Graydon, Transcript, February 11, 2021, p 86.

374 Evidence of D. Scott, Transcript, February 8, 2021, pp 121, 140–42.

375 Evidence of L. Vander Graaf, Transcript, November 13, 2020, p 102.

376 Ibid, pp 159–62; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 185–90; Exhibit 181, Vander Graaf #1, exhibit D.

377 Evidence of D. Scott, Transcript, February 8, 2021, pp 34, 121–22, 140–42, 170.

Mr. Scott elaborated upon the actions planned for phase three of the strategy by indicating that while patron interviews would likely have been the initial step during that phase, it was possible that further measures may have been necessary, such as a cap on the size of cash transactions.[378] Mr. Scott acknowledged that measures of this sort were reserved as a last resort in part due to revenue considerations. He described a meeting with Ms. Wanamaker in which he believed that it was implied that such measures may be necessary and could have a negative impact on revenue.[379] According to Mr. Scott, Ms. Wanamaker responded that a loss of revenue could ultimately be acceptable, but that Mr. Scott would need to make the case that it was necessary, which would require that he demonstrate that he had attempted to resolve the issue through other means that would not have the same impact on revenue.[380]

Anti–Money Laundering Strategy in Context: 2011 and 2012 Reports of Findings

While the GPEB investigation division temporarily ceased its correspondence with BCLC following the creation of the GPEB anti–money laundering cross-divisional working group, it continued to produce reports of findings and forward them to Mr. Scott. The division produced two such reports of findings in late 2011 and early 2012, as the anti–money laundering strategy was being developed. It is useful, in my view, to consider the strategy alongside these two reports of findings, as they offer insight into what was actually occurring within the province's casinos at the time and, by extension, the nature of the issue the strategy was intended to address.

November 14, 2011, Report of Findings

The first of these two reports, dated November 14, 2011, and prepared by Mr. Dickson, detailed the activity of a single patron at the River Rock casino over the span of 10 days in the fall of 2011.[381] During this time period, the patron bought-in 13 times for amounts ranging from $69,960 to $200,000. The cumulative value of the patron's buy-ins during this period was $1,819,880 including $1,378,500 in $20 bills. According to the report, the funds used by the patron were "transported in a variety of bags and was all packaged in $10,000 bricks wrapped in two elastic bands." Mr. Dickson noted that the patron had opened a PGF account approximately a year prior to this activity and that the account remained open at the time of these transactions.

Based on the facts set out in the report, Mr. Dickson reached the following conclusions regarding the pattern of activity exhibited by the patron:

> [The patron] is a 26 year old male who reportedly is the Chairman of the Board and CEO of a publicly traded company on the Hong Kong Stock

378 Ibid, 36–37, 78; Exhibit 557, Scott #1, para 43.

379 Evidence of D. Scott, Transcript, February 8, 2021, pp 78–79.

380 Ibid, p 79.

381 Exhibit 181, Vander Graaf #1, exhibit L.

> Exchange. Limited background checks fail to identify [the patron] as having a criminal background. He however is knowingly using loan sharks and is being used by loan sharks and organized crime to at very least, facilitate the laundering of large amounts of small denomination cash through his play at a Lower Mainland casino. The access to the large quantities of cash involved, in small denominations, how the cash is packaged and delivered to the casino are all indicative of the laundering of the proceeds of crime on a very large scale.
>
> This is yet another example of criminals utilizing casinos in British Columbia to launder significant sums of money, utilizing wealthy Asian businessmen. This concern has been raised on numerous occasions in the past by the Investigations Division. To date, any anti–money laundering strategies deployed by BCLC or the service providers have had little or no impact on the number of reported suspicious cash transactions [SCTs]. As a matter of fact, the numbers of [SCTs] reported to GPEB and the amounts of suspicious small denomination cash, particularly 20 dollar bills, entering BC casinos continues to increase.

Both Mr. Schalk and Mr. Vander Graaf added comments to the report that were supportive of Mr. Dickson's conclusions. A notation in the report indicates that it was forwarded to Mr. Scott on November 16, 2011.

February 22, 2012, Report of Findings

Mr. Dickson prepared a second report of findings on February 22, 2012.[382] Rather than focusing on the activity of a single patron, this report examined suspicious transactions at the River Rock generally during the five-week period between January 13, 2012, and February 17, 2012. This timespan was intended to capture the period before, during, and after the Chinese New Year, which began on January 23, 2012.

The report indicates that GPEB received a total of 85 suspicious currency transaction reports from the River Rock during this time period. The total value of these transactions was $8,504,060, of which $6,677,620 was in $20 bills. Of these 85 total reports, 74 related to transactions conducted by patrons involved in multiple suspicious transactions during this period. One patron was responsible for 19 such transactions, with a total value of $1,435,480.

In remarks included in the report, Mr. Dickson noted that several of the patrons responsible for these transactions had active PGF accounts during this time period, which were either emptied and not replenished or not used at all. Mr. Dickson also indicated in the report that these transactions included several incidents in which "these patrons lose their bankroll and leave the casino, only to return a short while later (sometime[s] within minutes) with another bag of cash, primarily in $20 denominations and bundled in $10,000 bricks held together by two elastic bands."

382 Ibid, exhibit M.

Mr. Dickson forwarded this report to Mr. Schalk on February 22, 2012. Remarks added to the report by Mr. Schalk assist in placing the transactions reflected in this report in the broader context of what was occurring in the gaming industry generally at this time:

> The River Rock Casino, although the most prominent of 5 major [Lower Mainland] casinos that have by far the most … Suspicious Currency Transactions [SCT] occurring, would still only account for approximately 40% of all SCT reports and approximately 50% of all SCT monies reported.
>
> …
>
> It should also be noted that the incidents of Suspicious Currency Transactions reported by gaming venues continues to rise dramatically from year to year. In the fiscal year **2009/2010, 117 incidents** of Suspicious Currency Transactions were reported (non-reporting by Service Providers was certainly more of an issue then – our scrutiny on non-reporting issues has tightened up reporting considerably). In the fiscal year **2010/2011, 459 reports** were received. For the fiscal year **2011/2012** up to 15 Feb **(10 ½ months) 653 reports** of Suspicious Currency Transactions have been reported (projected to be at least 750 incidents for the full year). [Emphasis in original.]

Mr. Schalk's remarks make clear that the transactions identified in this report were likely the extent of the suspicious activity occurring in British Columbia casinos at the time, and also that activity of this sort was accelerating rapidly.

While I cannot say with certainty whether Mr. Scott had received the second of these reports before the anti–money laundering strategy was finalized, these two reports assist in providing insight into the conditions in the gaming industry as the strategy was being developed. I understand that the rate at which suspicious cash was entering the province's casinos at this time pales in comparison to what was observed a few years later. However, in my view, these reports, alongside the earlier reports produced in 2010 and the reporting data discussed earlier in this chapter, establish that suspicious cash was already entering the province's casinos at an alarming – and rapidly growing – rate by early 2012. This should have made apparent to anyone with knowledge of this information that there was a very serious problem requiring immediate and decisive action.

In this context, it is striking that the strategy developed to respond to this issue required only the development and promotion of entirely voluntary cash alternatives for nearly two years following its initial implementation. Aside from the vague expectation of BCLC "intervention" with high-risk players – which BCLC seems to have quickly rejected – patrons would remain free to continue to gamble with suspicious cash. Given the timidity of the action contemplated in the initial stages of the strategy, it is unsurprising that the rate of suspicious transactions continued to grow in the years that followed.

Development and Initial Impact of New Cash Alternatives

I will return to consider the wisdom of the decision to focus on cash alternatives during this time period in Chapter 14. Leaving aside the question of whether this was the optimal approach, or even whether it had any realistic hope of succeeding, it is clear that, in the wake of Mr. Kroeker's report and the development of the strategy, the industry moved quickly to enhance the cash alternatives available to casino patrons. Based on the evidence of Mr. Towns, then BCLC's vice-president of corporate security and compliance, it appears that this was no small undertaking. Mr. Towns described in his affidavit the process for developing and implementing cash alternatives:[383]

> Cash alternative programs were not easy to implement. Each step of the program was independent and required consideration, approval and implementation, including input from Service Providers. BCLC had to ensure that the Service Providers could operationalize the proposals, so it was not possible to implement these programs overnight. My recollection is that Service Providers were actively involved in BCLC's efforts to develop cash alternative programs, and were generally supportive of these efforts.
>
> ...
>
> In addition to seeking input from Service Providers, GPEB approval was required for each cash alternative program. I recall some delays in the process of working with GPEB in this regard. My primary contact at GPEB at the time was Bill McCrea, Executive Director, Internal Compliance and Risk Management. Mr. McCrea was generally receptive to BCLC's proposals, but had to consult with others within GPEB including investigators, auditors and policy analysts prior to approval of a proposed program. Mr. McCrea would generally relay questions from within GPEB to BCLC, and there would often be back and forth discussion on each proposal.

In April 2012, in addition to enhancements to and expansion of PGF accounts, BCLC began to implement a number of new options by which patrons could buy-in. These included including "hold cheques" (known players were permitted to play against the value of a cheque presented at a casino without the cheque being cashed); certified cheque buy-ins; and debit machines at the cash cage.[384] BCLC also introduced new mechanisms for paying money out to patrons, including convenience cheques, which are used to return non-verified winnings and/or buy-in funds to a patron and were initially limited to $5,000 per patron per week (later increased to $10,000) and "return of funds" cheques, which are used to return funds to patrons from PGF accounts.[385]

383 Exhibit 517, Towns Affidavit, paras 118, 120.

384 Exhibit 517, Towns Affidavit, para 124; Exhibit 505, Lightbody #1, para 25; Evidence of C. Cuglietta, Transcript, January 21, 2021, p 43.

385 Exhibit 517, Towns Affidavit, para 124; Exhibit 505, Lightbody #1, para 25; Exhibit 148, Tottenham #1, paras 13–15.

According to Mr. Lightbody, these efforts led to some initial success, as he was advised by Mr. Towns in or around July 2012 that the combination of PGF accounts and availability of debit machines at casino cash cages had resulted in the removal of $17 million of cash from British Columbia's gaming system.[386] Mr. Towns gave evidence that he believed that the cash alternatives introduced at this time were effective and that, by October 2012, $42.7 million in cash had been eliminated from the province's casinos.[387] Mr. Towns seems to have arrived at this figure by adding the value of all debit transactions during this period ($667,450) with the value of all funds withdrawn from PGF accounts ($42,098,380).[388] Accordingly, the evidence of Mr. Towns should not be understood to indicate that the total value of cash accepted by the province's casinos was $42.7 million *lower* following the introduction of these alternatives relative to what it had been prior to their introduction. Rather, the conclusion that these funds were "removed" from the gaming industry seems based on the assumption that any transactions conducted using cash alternatives would have been completed in cash were it not for the presence of these alternatives. As discussed previously in this chapter, the evidence before me, including large and suspicious cash reporting data and the evidence of witnesses working in the industry during this time period, reveals that, contrary to the suggestion that cash was being "removed" from the gaming industry, the rate of suspicious cash buy-ins continued to rise at a rapid rate despite the introduction of voluntary cash alternatives.

Service Provider and BCLC Response to BCLC Investigator Intervention in Suspicious Transactions

At approximately the same time that BCLC was implementing these new cash alternatives, it was also issuing directions to its investigators to limit their efforts to respond to suspicious activity in the province's casinos. As discussed earlier in this chapter, one BCLC investigator, Mr. Hiller, developed concerns about the sources of cash used in casino transactions shortly after joining BCLC in February 2009. In the years that followed, additional investigators with law enforcement experience joined BCLC's investigative staff and developed concerns similar to Mr. Hiller's. As suspicious transactions grew in prevalence, these investigators attempted to take action in response within the sphere of their authority, occasionally encountering resistance from service provider staff. In 2012, following one investigator's attempts to intervene directly in suspicious transactions at the River Rock, three investigators were instructed by Mr. Towns to cease these efforts. Below, I discuss this incident and other interventions that impeded the efforts of BCLC investigators to respond to suspicious activity in casinos.

386 Exhibit 505, Lightbody #1, para 26.

387 Evidence of T. Towns, Transcript, February 1, 2021, pp 13–14.

388 Ibid, pp 13–14; Exhibit 517, Towns Affidavit, exhibit 49.

Growth of BCLC Investigator Concerns About Large Cash Transactions

As indicated above, Mr. Hiller developed concerns about large and suspicious cash transactions early in his tenure with BCLC, when the rate of such transactions began to accelerate. While Mr. Hiller may have been among the first to develop these concerns – and was clearly very vocal in expressing them[389] – he was soon joined by other investigators who shared his perspective. Mr. Beeksma, for example, who joined BCLC as an investigator in late 2008,[390] described developing the following concerns after being transferred to the River Rock in May 2012, where he was partnered with Mr. Hiller:[391]

> I viewed the large cash buy-ins that involved significant numbers of $20 bills and that resulted in STRs being filed as suspicious. It seemed likely to me that these funds were from questionable sources, because I could think of few legitimate explanations for why someone would have so many $20 bills – that's why BCLC investigators were filing [suspicious transaction reports] and banning players. I shared my views regarding the suspicious nature of these transactions during our monthly BCLC casino investigator meetings, as well as during our regular police working group meetings.

Similar concerns about the source of cash used in suspicious transactions were expressed by Mr. Tottenham, who joined BCLC as an investigator in 2011.[392] Like Mr. Hiller, Mr. Tottenham was an experienced police officer and his concerns about the significant volumes of cash being accepted in the province's casinos were grounded in his law enforcement experience:[393]

> As a former police officer, I viewed the volume of cash coming into BCLC casinos at that time as suspicious. The volume of cash entering BCLC casinos, who was involved in bringing cash into BCLC casinos and what the investigators could do about it, were often topics of conversation at our monthly meetings. I suspected, based on my policing experience and discussions with other investigators and our managers at monthly meetings, that some patrons could be obtaining the cash through underground banking networks. I was concerned about the potential use by patrons of underground banking networks to fund gaming because we were unable to detect and confirm the source of the cash obtained from underground banking, which could possibly include the proceeds of crime.

The same year that Mr. Tottenham was hired by BCLC, another former law enforcement officer, Ross Alderson, joined the BCLC casino investigations staff.

389 Exhibit 166, Hiller #1, para 37; Evidence of M. Hiller, Transcript, November 9, 2020, pp 23–26; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 44–45; Evidence of S. Lee, Transcript, October 27, 2020, pp 35–36; Exhibit 78, Beeksma #1, para 54; Evidence of R. Alderson, Transcript, September 9, 2021, pp 14.

390 Exhibit 78, Beeksma #1, para 37.

391 Ibid, para 52.

392 Exhibit 148, Tottenham #1, para 6.

393 Ibid, para 23; see also Evidence of D. Tottenham, Transcript, November 4, 2020, pp 8–10.

Mr. Alderson, who was stationed primarily at the River Rock, gave detailed evidence of the large and suspicious cash transactions he observed at that casino and explained that he was "surprised and quite taken aback" by these transactions and that his view at the time was that the cash used in these transactions was likely the proceeds of crime.[394]

Actions Taken by BCLC Investigators and Response of Service Providers and BCLC

It is clear from the evidence before me that these investigators acted upon these concerns. In addition to investigating suspicious transactions identified by service providers and reporting them, where appropriate, to FINTRAC, investigators sought to intervene, in limited ways, to prevent suspicious transactions from taking place. Their primary avenue for doing so was through requests that patrons be barred from casinos across the province. This led, in some instances, to conflict with Great Canadian staff.

Mr. Hiller, for example, gave evidence of repeated disagreements with Mr. Duff, former general manager of the River Rock Casino, over patrons being barred from casinos by BCLC. In July 2009, for example, Mr. Hiller recalled that Mr. Duff was upset about BCLC barring two players who had engaged in large cash transactions and who were known to Mr. Hiller from his experience as a member of the RCMP.[395] Mr. Hiller's contemporaneous notes indicate that Mr. Duff advised that he would discuss the matter further with Mr. Hiller's superior, Mr. Morrison.[396] According to Mr. Hiller, Mr. Duff also threatened to "instruct surveillance to do things differently" if "this is how BCLC investigators are going to do business."[397] A few days later, after Mr. Morrison and Mr. Friesen met with Mr. Duff, the barrings that were of concern to Mr. Duff were rescinded by Mr. Morrison,[398] though the two patrons were eventually barred again at a later date.[399] Mr. Hiller testified that this was the only instance he could recall where a barring he had proposed had been rescinded following intervention by a service provider, but that BCLC patron barrings remained a point of contention between Mr. Duff and himself for some time.[400]

Similarly, Mr. Lee gave evidence of disagreements with Mr. Duff over patron barrings after Mr. Lee was assigned to the River Rock in 2012:[401]

> I recall Great Canadian's general manager of River Rock, Rick Duff, frequently complaining to me and other BCLC employees about BCLC's loan sharking and other bans because he thought these bans were bad for business.

394 Evidence of R. Alderson, Transcript, September 9, 2021, pp 10–14.
395 Evidence of M. Hiller, Transcript, November 9, 2020, pp 73–74, 79.
396 Ibid, p 73.
397 Ibid.
398 Ibid, pp 73–74.
399 Ibid, p 79.
400 Ibid, pp 74–75.
401 Exhibit 87, S. Lee #1, para 35.

Mr. Alderson's Intervention in Large Cash Transactions

This tension between Mr. Duff and BCLC investigators stationed at the River Rock seems to have taken a new turn in March and April 2012 following the actions of Mr. Alderson in connection to two incidents at the casino.

The first incident involved Mr. Alderson interviewing two female patrons connected to cash drop-offs. Mr. Duff, who was present for this interview, directed that the interview cease while it was in progress, before eventually permitting it to continue after a discussion with Mr. Alderson.[402]

The second incident involved two suspicious transactions by a different patron that took place on consecutive days. On the first day, the patron bought-in for $100,000 in small bills, played minimally, then cashed out for $100 bills. As Mr. Alderson reviewed this incident the following day, the patron returned, bought-in for another $100,000 in small bills and again engaged in play that seemed intended to avoid putting the bulk of his funds at risk. Upon learning that the patron had returned and was engaging in the same activity, Mr. Alderson telephoned the River Rock surveillance department and directed that the patron be repaid in $20 bills.[403] According to Mr. Alderson, Mr. Duff arrived at the BCLC investigators' office at the River Rock within minutes of Mr. Alderson's phone call and yelled at Mr. Alderson that he had no authority to direct Mr. Duff's staff.[404] Following further discussion, Mr. Duff and Mr. Alderson agreed that the patron's play would be suspended and that Mr. Alderson would speak with the player in the following days.[405] Mr. Alderson interviewed the patron within approximately a week of the incident and recalled the patron advising him that he received the cash used in these buy-ins in the parking lot of a mall in Richmond and that he had arranged the drop-offs via the WeChat messaging and social media application.[406]

In understanding the events that followed these two incidents, it is important to recognize the extent to which they deviated from the commonly understood role of BCLC investigators at the time. This was made clear in the affidavit of Mr. Beeksma, who was stationed at the River Rock alongside Mr. Alderson when these incidents occurred:[407]

> While there was no specific direction from BCLC not to interview players, this was not something I had ever seen a BCLC casino investigator do before. As players became increasingly valuable clientele, I could see that River Rock staff really catered to them in order to ensure they had a positive experience. The thought of a BCLC investigator approaching a VIP player on the floor was therefore unthinkable and was not something I had ever even considered at that point in time.

402 Exhibit 78, Beeksma #1, para 62, exhibit G.

403 Evidence of R. Alderson, Transcript, September 9, 2021, pp 17–19; Exhibit 87, S. Lee #1, para 35, exhibits A, B, C.

404 Evidence of R. Alderson, Transcript, September 9, 2021, p 19.

405 Ibid, pp 19–20.

406 Ibid, p 17.

407 Exhibit 78, Beeksma #1, para 63.

Service Provider Response and Mr. Towns's Meeting with Mr. Alderson, Mr. Beeksma, and Mr. Lee

Following these incidents, Mr. Lightbody received a phone call from a Great Canadian executive. According to Mr. Lightbody's evidence, the executive complained about BCLC investigators speaking to patrons at Great Canadian-operated facilities.[408] Mr. Lightbody explained that he did not offer to have BCLC investigators cease speaking with patrons, but he did advise Mr. Towns of the complaint.[409]

At the next regularly scheduled BCLC investigators meeting on April 18, 2012, Mr. Friesen escorted Mr. Alderson, Mr. Beeksma, and Mr. Lee to Mr. Towns's office. Bryon Hodgkin, BCLC's director of operational compliance, was also present.[410]

In their evidence, Mr. Lee and Mr. Beeksma offered consistent versions of the message delivered to the three investigators by Mr. Towns. Mr. Lee described the meeting in his affidavit:[411]

> I recall Mr. Towns stating that he wanted to "get everyone on the same page" and that two high limit players passing chips is not commercial and therefore not suspicious. He also told myself, Mr. Alderson, and Mr. Beeksma that we were not police officers and to stop speaking to patrons. We were instructed that it was Great Canadian staff who should speak with patrons.
>
> Mr. Towns never instructed us that it was not our job to investigate money laundering.

Mr. Beeksma offered the following similar account of the meeting in his own affidavit:[412]

> During the next regularly scheduled monthly investigator meeting, Gordon Friesen escorted Mr. Alderson, Mr. Lee, and myself to Terry Towns' office. Mr. Towns was there with [Bryon] Hodgkin. Mr. Towns first told Mr. Friesen, Mr. Alderson, Mr. Lee, and myself, with Mr. Hodgkin present, that we were being too aggressive about chip passing investigations and said that two friends giving each other chips was not a big deal. Near the end of our meeting, Mr. Towns also told us that we needed to stop speaking to players – he told us that we were not law enforcement and that it was not our job to speak to players. I specifically remember Mr. Towns telling us to "cut that shit out." He never told us that it was not our job to investigate money laundering.

408 Exhibit 505, Lightbody #1, para 30.

409 Ibid, paras 30–31.

410 Exhibit 78, Beeksma #1, para 66; Evidence of S. Beeksma, Transcript, October 26, 2020, p 54; Exhibit 87, S. Lee #1, para 39; Evidence of S. Lee, Transcript, October 27, 2020, p 26; Exhibit 148, Tottenham #1, para 29; Evidence of D. Tottenham, Transcript, November 4, 2020, p 20; Evidence of R. Alderson, Transcript, September 9, 2021, p 20.

411 Exhibit 87, S. Lee #1, paras 40–41.

412 Exhibit 78, Beeksma #1, para 66.

Both Mr. Lee and Mr. Beeksma also described this meeting in their oral evidence in a manner consistent with their affidavits.[413]

Mr. Alderson's version of events was similar to those of Mr. Lee and Mr. Beeksma, but differed in that Mr. Alderson testified that Mr. Towns *did* advise the three investigators that it was not their job to investigate money laundering.[414]

Neither Mr. Towns nor Mr. Friesen could recall the meeting during their testimony before the Commission.[415] Mr. Towns did give evidence that investigators were not prohibited from speaking with patrons at the time and that, in fact, they "were speaking to casino patrons on a regular basis … on all kinds of matters in the casino."[416] When asked if investigators were permitted to speak with patrons about the source of the funds they were using to buy-in, however, Mr. Towns responded, "No … we didn't employ that method at that time."[417] Mr. Friesen's evidence was that he directed investigators that if they were to speak with patrons, they should do so in the company of service provider security staff.[418] Mr. Friesen further testified that he would have found it "astounding" for Mr. Towns to have directed investigators to "ease up on the enforcement of chip passing regulations."[419]

Both Mr. Lee and Mr. Alderson testified that the three investigators met with Mr. Friesen following their meeting with Mr. Towns.[420] Mr. Lee's evidence was that, in this second meeting, Mr. Friesen indicated that he "agreed with" the actions being taken by the investigators, but that "this is political."[421] Contemporaneous notes made by Mr. Lee following the meeting indicate that "[Mr. Friesen] stated that he agrees with what we're doing but this is political and what you gonna do?"[422]

Mr. Alderson testified that Mr. Friesen made comments to the effect that the directions issued by Mr. Towns were connected to "financial pressure" and that it was "about the revenue."[423] Like Mr. Lee, Mr. Alderson also took contemporaneous notes of this meeting with Mr. Friesen. These notes indicate, among other things, that Mr. Friesen advised the investigators that "he had argued on [their] behalf and that his hands were tied. It's all about the revenue."[424]

413 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 53–57; Evidence of S. Lee, Transcript, October 27, 2020, pp 25–29.

414 Evidence of R. Alderson, Transcript, September 9, 2021, pp 20–21.

415 Exhibit 517, Towns Affidavit, paras 144–45; Evidence of T. Towns, Transcript, January 29, 2021, pp 177–78; Evidence of G. Friesen, Transcript, October 28, 2020, pp 95–96.

416 Evidence of T. Towns, Transcript, January 29, 2021, p 177; Exhibit 517, Towns Affidavit, para 144.

417 Evidence of T. Towns, Transcript, January 29, 2021, pp 177–78.

418 Evidence of G. Friesen, Transcript, October 28, 2020, p 94.

419 Ibid, p 96.

420 Exhibit 87, S. Lee #1, para 42; Evidence of R. Alderson, Transcript, September 9, 2021, p 22.

421 Exhibit 87, S. Lee #1, para 42.

422 Ibid, exhibit D.

423 Evidence of R. Alderson, Transcript, September 9, 2021, p 22.

424 Exhibit 1035, Ross Alderson Notes – January 2011–January 2013, p 8.

Based on all of the evidence, I am satisfied that the meeting with Mr. Towns described by Mr. Beeksma, Mr. Alderson, and Mr. Lee did occur. The three investigators gave largely consistent accounts of the meeting, which were also consistent with Mr. Lee's and Mr. Alderson's contemporaneous notes.[425] While neither Mr. Towns nor Mr. Friesen could recall the meeting, neither denied outright that it took place. As to the contents of the meeting, I accept that Mr. Towns indicated something to the effect that the investigators should be less aggressive in their responses to chip passing and that they were not to speak to casino patrons. I am unable to conclude, however, that Mr. Towns directed the three investigators that it was not their job to investigate money laundering. Mr. Alderson's evidence to this effect is directly contradicted by that of Mr. Lee and Mr. Beeksma. While it is possible that Mr. Alderson may have inferred this to have been the effective message conveyed by the directions issued by Mr. Towns, I am satisfied that Mr. Towns did not actually tell the three investigators during this meeting that it was not their job to investigate money laundering.

I am not persuaded by the evidence of Mr. Towns or Mr. Friesen that it was common for investigators to speak with patrons at the time, at least in the manner of Mr. Alderson's interviews of River Rock patrons discussed above. It is clear from the evidence of multiple witnesses employed as BCLC investigators at the time, including Mr. Beeksma,[426] Mr. Lee,[427] Mr. Hiller,[428] and Mr. Tottenham,[429] that this was contrary to their understanding of their role as investigators.

I am convinced that Mr. Beeksma, Mr. Alderson, and Mr. Lee had a separate meeting with Mr. Friesen following the meeting with Mr. Towns. I accept that, at this meeting, Mr. Friesen indicated some level of agreement with the actions taken by the investigators that prompted the meeting and, as indicated by Mr. Lee, that Mr. Friesen made some reference to the reasoning behind Mr. Towns's directions being "political." Mr. Lee's evidence is corroborated in this regard by his contemporaneous notes.[430] Further, I accept Mr. Alderson's evidence that Mr. Friesen indicated that these directions were connected to revenue considerations. While not corroborated by Mr. Lee's evidence or his notes, a comment to this effect is reflected in Mr. Alderson's contemporaneous notes of this meeting.[431]

Impact of Mr. Towns's Directions

Mr. Alderson's efforts to interview casino patrons regarding suspicious activity was a significant diversion from the normal practice of BCLC investigators at that time. The meeting with Mr. Towns reinforced the expectation that investigators were not to

425 Ibid; Exhibit 87, S. Lee #1, exhibit D.

426 Exhibit 78, Beeksma #1, para 63.

427 Evidence of S. Lee, Transcript, October 27, 2020, pp 27–30.

428 Evidence of M. Hiller, Transcript, November 9, 2020, pp 17–18; Exhibit 166, Hiller #1, paras 25–27.

429 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 19–20.

430 Exhibit 87, S. Lee #1, exhibit D.

431 Exhibit 1035, Ross Alderson Notes – January 2011–January 2013, p 8.

speak to patrons,[432] instructions which, based on the evidence of Mr. Beeksma[433] and Mr. Lee,[434] remained in place until 2015, representing an important lost opportunity to gather additional information about the sources of funds used in these transactions.[435]

2012 FINTRAC Source of Funds Inquiry Recommendation

Within just a few months of Mr. Towns's direction to Mr. Alderson, Mr. Beeksma, and Mr. Lee, BCLC received advice from FINTRAC suggesting that BCLC make exactly the sort of inquiries made by Mr. Alderson in instances of suspicious activity. On December 14, 2012, Mr. Hodgkin sent an email to Mr. Graydon regarding a "debrief" he had attended with representatives of FINTRAC, following an audit of BCLC conducted by FINTRAC.[436]

In the email, Mr. Hodgkin advised Mr. Graydon that the meeting had generally been positive, but that the FINTRAC representatives had made a recommendation, which he articulated as the "need to have the service providers ask where the money comes from if someone attends with an inordinate amount of cash."[437]

In the email, Mr. Hodgkin indicated that BCLC would "move forward on this." Mr. Graydon testified that he had no recollection as to whether BCLC had implemented this recommendation, but because, in his view, BCLC "always worked to ensure that the recommendations from our regulators were applied," he made "the assumption" that BCLC did implement this recommendation.[438] Mr. Graydon's assumption was clearly mistaken. In fact, BCLC did not indicate to service providers that they should make such inquiries until late 2014[439] and did not begin to regularly interview patrons about the source of funds used in large cash transactions until 2015. BCLC did not implement a general policy requiring such inquiries by service providers of all patrons buying-in for amounts over an identified threshold until 2018.

Mr. Graydon's Communications with BCLC Senior Executives

Mr. Graydon's lack of awareness that BCLC had not acted on this recommendation indicates the limits of his focus on BCLC's anti–money laundering efforts. Emails sent by Mr. Graydon in late 2011 and early 2012 to senior BCLC staff suggest a much

432 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 20–23; Evidence of S. Beeksma, Transcript, October 26, 2020, p 57; Evidence of R. Alderson, Transcript, September 9, 2021, pp 22–23.

433 Evidence of S. Beeksma, Transcript, October 26, 2020, p 57.

434 Evidence of S. Lee, Transcript, October 27, 2020, p 28.

435 Ibid, pp 28–29.

436 Evidence of M. Graydon, Transcript, February 11, 2021, pp 75–76; Exhibit 578, Email from Bryon Hodgkin to Michael Graydon, re Fintrac audit (December 14, 2012).

437 Evidence of M. Graydon, Transcript, February 11, 2021, pp 75–77; Exhibit 578, Email from Bryon Hodgkin to Michael Graydon, re Fintrac audit (December 14, 2012).

438 Evidence of M. Graydon, Transcript, February 11, 2021, pp 76–77.

439 Exhibit 1045, Affidavit #3 of Cathy Cuglietta, made on August 31, 2021; Exhibit 530, Ennis #1, exhibit A

greater level of concern for, and direct engagement with, ensuring that BCLC met its budgetary targets.[440]

On December 1, 2011, Mr. Graydon sent the following email, with the subject line "Current Year Forecast" to a group of senior BCLC employees, including Mr. Towns and Mr. Lightbody:[441]

> I know you have all been providing input to Finance regarding the current year budget and your forecast for year end. I want to stress to the group that it is absolutely critical that we come in on budget from a net income perspective this year and I expect every one of you to make an all-out effort to achieve that. If we do not, I also want to be very clear there will be no opportunity to pay out incentive this year. The tone in government is not good these days and to not achieve budget then payout incentive will not fly. So remember the consequences you will unleash if you do not participate with some energy through this process. We will be looking at the numbers Friday and if we are not to a point where we are comfortable you will be challenged and if that does not yield the results we need I will be forced to make the decisions on your budget. These are very different times and we have to be responsive to our shareholder and I am committed to do that.

Mr. Graydon followed this email with a similar message sent less than two weeks later on December 13, 2011, to a nearly identical list of recipients:[442]

> Tom has now provided you all your specific departmental targets for the remainder of this year. I want to ensure everyone understands this is not a process of negotiation but rather targets I have signed off on with the full expectation of you hitting these numbers. It is imperative that your division comes in with these numbers or better. As I have said before Victoria is not keen to pay incentive if budgets are not met and I do not want the company to be put in that position so let's please work together to ensure success. We will discuss further at Wednesdays Exec meeting.

Finally, on March 23, 2012, Mr. Graydon emphasized the importance of revenue generation in an email to a similar list of recipients.[443]

> As you all know our shareholder has a real keen desire to increase revenue. The real focus is the 2013–14 year and the target I have been challenge[d] to think about is an incremental $40 million in [n]et income. Given we have a year to plan I would like you to come to the Exec on Tuesday with your

440 Exhibit 518, Email from Michael Graydon, re Current Year Forecast Budget (December 1, 2011); Exhibit 519, Email from Michael Graydon, re Year End Forecast (December 13, 2011); Exhibit 577, Email from Michael Graydon, re Revenue (March 23, 2012).

441 Exhibit 518, Email from Michael Graydon, re Current Year Forecast Budget (December 1, 2011).

442 Exhibit 519, Email from Michael Graydon, re Year End Forecast (December 13, 2011).

443 Exhibit 577, Email from Michael Graydon, re Revenue (March 23, 2012).

> thoughts. This can include any new initiative or expansion of our current business. "Buck Up", further White Label of internet [etc.] Be creative in utilizing the monopoly we have in our hands.

Mr. Graydon testified that these emails were illustrative of communications he sent periodically to his leadership team. He disputed the suggestion that focusing on only one part of BCLC's mandate – revenue generation – might lead the recipients to view that BCLC prioritized revenue over social responsibility.[444] Mr. Graydon explained that any ideas generated to maximize revenue would have been discussed at the executive committee meeting and no sacrifices on other priorities, like responsible gambling or anti–money laundering, would have entered into those discussions.[445] Mr. Towns, BCLC's vice-president of corporate security and compliance at the time he received these emails, testified that he did not consider "at all" whether compliance actions that restricted the manner or type of buy-ins might impact on revenue.[446] I accept that evidence. Nevertheless, these emails and, in particular, the connection they draw between revenue and individual compensation had the potential to motivate the recipients to prioritize revenue over other considerations and could easily give rise to a perception that executives might be influenced to make compliance concerns secondary to revenue generation.

November 19, 2012, Report of Findings and GPEB Letter of December 27, 2012

Insight into the state of large and suspicious cash transactions in British Columbia's casinos at the end of 2012, just prior to the date of the suggestion from FINTRAC, is found in GPEB's report of findings dated November 19, 2012, referred to earlier in this chapter. As indicated in Table 10.2 included above, this report,[447] authored by Mr. Dickson, provided an overview of the number of suspicious currency transactions reported to GPEB pursuant to section 86 of the *Gaming Control Act* in each year since 2007.

As this report was prepared prior to the end of 2012, it did not include complete data for that year. Mr. Dickson indicated in the report, however, that in the first nine months of the year alone, GPEB received 794 such reports, eclipsing the total for the entirety of the previous year by more than 100. The report estimated that, if the pace of these transactions remained constant, GPEB would receive 1,060 such reports by the end of the year. The report went on to provide additional data regarding the suspicious transactions observed during this time period. It indicated that the total value of the 794 suspicious currency transactions reported to GPEB was $63,971,727, including $44,168,660 in $20 bills. According to the report, 79 separate patrons had bought-in for $100,000 or more in cash on at least one occasion and 17 patrons had

444 Evidence of M. Graydon, Transcript, February 11, 2021, p 64.

445 Ibid, pp 64–65.

446 Evidence of T. Towns, Transcript, January 29, 2021, pp 181–82.

447 Exhibit 181, Vander Graaf #1, exhibit G.

cash buy-ins totaling over $1 million, all in cash. In contrast with the views of Mr. Towns and Mr. Lightbody discussed above, Mr. Dickson concluded this report with a note of skepticism regarding the impact of the enhanced cash alternatives introduced earlier that year:

> BCLC initiated several enhancements to the Player Gaming Fund Account in April, 2012, to lessen amounts of cash entering casinos however, the results of this review indicate that it has not slowed the flow of suspicious cash into Lower Mainland casinos.

I accept that the cash alternatives introduced beginning in April 2012 did receive some use from casino patrons and that this use resulted in transactions that would otherwise have involved cash being conducted by other means. I also appreciate that the data reported by Mr. Dickson included several months prior to April 2012, when the new cash alternatives were not yet available. However, it is clear from these data – and from that for subsequent years – that these efforts did little to slow, let alone reverse, the rapid acceleration of suspicious cash transactions in the province's casinos. This is not surprising, given that the cash alternatives were entirely voluntary.

GPEB Letter of December 27, 2012

The analysis contained in this report of findings appears to have inspired the investigation division to resume its correspondence with BCLC,[448] which it had ceased around the time that the anti–money laundering cross-divisional working group was formed. On December 27, 2012, Mr. Schalk wrote to Mr. Hodgkin.[449] While Mr. Schalk's letter indicated that it was further to the correspondence commenced with Mr. Friesen in November 2010, neither Mr. Friesen nor Mr. Karlovcec were copied on the letter and neither recalled seeing the letter at the time that it was sent.[450]

In the letter, Mr. Schalk relayed the data set out above regarding suspicious currency transactions during the first nine months of 2012, along with similar data for the one-year time period between September 1, 2010, and August 31, 2011. At the conclusion of his letter, Mr. Schalk echoed Mr. Dickson's view that the recent enhancements to cash alternatives had "not slowed the flow of Suspicious Currency into Lower Mainland casinos" and expressed, on behalf of the GPEB investigation division, the view that "[t]he continued significant increase of Suspicious Currency being brought into and accepted" in Lower Mainland casinos was "significantly impacting the overall integrity of gaming in British Columbia."

448 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 126–29.

449 Exhibit 488 (previously marked as Exhibit A), Letter from Joe Schalk, re Suspicious Currency Transactions – Money Laundering Review Report (December 27, 2012).

450 Evidence of G. Friesen, Transcript, October 28, 2020, p 138; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 128–29.

2013 BCLC Internal and External Communications Regarding Suspicious Transactions and Money Laundering in BC Casinos

Unlike similar letters written to BCLC by the GPEB investigation division in 2010 and early 2011, the response to Mr. Schalk's letter did not come from BCLC's corporate security and compliance department. Instead, for reasons that are not clear from the record before me, this letter was elevated to BCLC CEO Mr. Graydon. Mr. Graydon's response, which was both critical of Mr. Schalk and highly skeptical of his concerns about large and suspicious cash transactions, is representative of a series of communications directed to GPEB and BCLC's own employees from BCLC's senior ranks at the end of 2012 and throughout 2013. Mr. Graydon's response to Mr. Schalk's letter and the pattern of related communications are discussed below.

Mr. Graydon's Reaction and Response to Mr. Schalk's Letter of December 27, 2012

Mr. Graydon testified that he was concerned by the tone and some of the contents of Mr. Schalk's letter of December 27, 2012.[451] It is clear to me from his evidence and from an email he sent to Mr. Scott on January 7, 2013,[452] that Mr. Graydon was at the time – and remained as of the date of his evidence – skeptical of the notion that the suspicious transactions referred to in Mr. Schalk's letter consisted of the proceeds of crime or were connected to money laundering. Asked whether it concerned him that, as indicated in Mr. Schalk's letter, a single patron bought-in for nearly $6 million in cash in a single year, Mr. Graydon responded that "[t]o those outside the gaming industry, it seems like a lot of money, but there was some very significant high net value players that did gamble with that magnitude of velocity" within the province's casinos.[453] During his oral examination, Mr. Graydon was pressed as to where, their wealth notwithstanding, a patron could get $6 million in cash, predominantly in $20 bills. He responded that BCLC "was working on trying to identify that" and while he conceded that it could have been the proceeds of crime, he also referred to "a philosophy out there" that this cash could have been sourced from underground banking.[454]

Mr. Graydon went on in his evidence to indicate that BCLC confirmed that Mr. Schalk's assertion that the province's casinos accepted $63 million in suspicious transactions, including $44 million in $20 bills, in the first nine months of 2012 was correct.[455] Despite these figures, he questioned the extent to which they reflected actual suspicious activity, suggesting that they may have been attributable to increased

451 Evidence of M. Graydon, Transcript, February 11, 2021, p 45.

452 Exhibit 576, Affidavit #1 of Michael Graydon, made on February 8, 2021, exhibit D.

453 Evidence of M. Graydon, Transcript, February 11, 2021, p 46.

454 Ibid, p 47.

455 Ibid, p 48.

reporting protocols or improved training.[456] It seems obvious that, if Mr. Graydon's theory as to the cause of the increased reporting was true, this would suggest that suspicious transactions had been significantly *underreported* in previous years. In my view, this should have been cause for even greater concern about the volume of suspicious cash entering the province's casinos.

Mr. Graydon similarly rejected the notion that these figures were indicative that the cash alternatives introduced that year were not having their intended effect, suggesting that "it took time for them to materialize into value" and that they "took almost a billion dollars out of the cash transactions that existed in our facilities."[457] Mr. Graydon repeated this figure several times during his evidence, but did not explain how he arrived at it.[458] It is clear from the available data that both the number of suspicious transactions and their value increased significantly during Mr. Graydon's tenure, including after the April 2012 enhancements to cash alternatives.

Mr. Graydon's response to Mr. Schalk's warnings was not to direct further enhancements to BCLC's anti–money laundering regime, but rather to complain to Mr. Scott about the fact that the letter was sent at all. In an email dated January 7, 2013, Mr. Graydon indicated that he was "very surprised and disappointed" to receive Mr. Schalk's letter and criticized the contents of the letter.[459] As with Mr. Graydon's evidence before the Commission, it is clear from this email that Mr. Graydon was dismissive of the basic premise of Mr. Schalk's letter that there was reason for serious concern regarding the level of suspicious activity occurring in the province's casinos. Mr. Graydon wrote, in part:

> Mr. Schalk has made a number of statistical comparisons and drawn conclusions from them that, in my opinion, are not only without foundation and simply erroneous, but could be perceived as inflammatory and offensive. He has also inferred that all [suspicious transaction reports] are money laundering files, which of course is not correct.
>
> In the first paragraph on page 2, it seems obvious that certain provocative statements are personal opinion and are not supported by fact or proper analysis. To the contrary, BCLC has worked closely with numerous enforcement departments and units to ensure organized crime is not associated to BC casinos and such statements [undermine] both BCLC and GPEB's efforts.

Mr. Graydon carried on to highlight the actions BCLC was taking in response to these transactions, including reporting to FINTRAC, barring members of criminal organizations from casinos, and "working closely with GPEB to reduce the flow of cash

456 Ibid, p 48.

457 Ibid, p 49.

458 Ibid, pp 25–26, 49, 97.

459 Exhibit 576, Affidavit #1 of Michael Graydon, made on February 8, 2021, exhibit D.

to gaming facilities." As in his evidence, Mr. Graydon suggested that these efforts had resulted "in total non-street cash used in casinos since April 1, 2012, in the amount of $911,555,058." Again, it is unclear precisely how Mr. Graydon arrived at this figure, but it seems clear that he is relying on metrics for measuring the success of the new cash alternatives that differed from those relied on by Mr. Towns and Mr. Lightbody.[460] Only three months prior to Mr. Graydon's email, Mr. Towns had concluded that the introduction of these cash alternatives had resulted in the removal of $42.7 million in cash from casinos by October 2012.[461]

Mr. Scott responded to Mr. Graydon on January 18, 2013, expressing regret for Mr. Schalk's letter and assuring Mr. Graydon that BCLC would receive no further letters of this sort:[462]

> By way of this email, I want you to know that I regret this communication from our office. As I discussed with [Mr. Vander Graaf], my greatest concern is that our correspondence on this and indeed all matters should be constructive and move issues forward. I recognize that this letter may have given your office the impression that it was accusatory in nature, and I want to assure you that GPEB recognizes that the AML issue is a joint responsibility that we must work on together to resolve. Further, I also note that BCLC has undertaken everything that we have asked and agreed to as part of the comprehensive AML strategy.
>
> ...
>
> During our discussion, Larry emphasized that correspondence such as the letter in question have gone back and forth between GPEB Investigations and BCLC Security for years. I do believe Larry did not think this letter was outside past practice, and thereby misunderstood the potential implications - including on important relationships between our organizations. No malice was intended to be sure. That said, communications of this type will stop going forward, and I look forward to expanding constructive formal and informal discussions to tackle this critical issue.

Mr. Scott testified that the indication in this letter that "BCLC [had] undertaken everything that we have asked and agreed to" was a reference to phase one of the anti–money laundering strategy. He did not intend to convey that there was nothing further that BCLC could do to address the continued acceptance of large cash transactions in British Columbia casinos.[463]

460 Exhibit 505, Lightbody #1, para 26; Evidence of T. Towns, Transcript, February 1, 2021, pp 13–14; Exhibit 517, Towns Affidavit, exhibit 49.

461 Evidence of T. Towns, Transcript, February 1, 2021, pp 13–14; Exhibit 517, Towns Affidavit, exhibit 49.

462 Exhibit 576, Affidavit #1 of Michael Graydon, made on February 8, 2021, exhibit D.

463 Evidence of D. Scott, Transcript, February 8, 2021, pp 181–182.

In addition to responding to Mr. Graydon, Mr. Scott also sent an email to and spoke with Mr. Vander Graaf regarding Mr. Schalk's letter.[464] Mr. Scott's email to Mr. Vander Graaf is consistent with the response to Mr. Graydon, clearly indicating Mr. Scott's frustration with Mr. Schalk's letter. Among other concerns, Mr. Scott questioned the purpose of the letter, given the absence of recommendations for action, and why it was not sent through Mr. Scott's office, as he indicates he had directed the previous fall.

It is hard to conceive how Mr. Graydon could have received the information in Mr. Schalk's letter about suspicious cash transactions and not been alarmed. If true, this information was a clear indication that BCLC's approach was not working and that vast and increasing sums of suspicious cash (likely proceeds of crime) were being accepted by Lower Mainland casinos. If Mr. Graydon doubted any of what Mr. Schalk was alleging, Mr. Graydon had at his disposal the information to confirm Mr. Schalk's assertions. Mr. Graydon's outrage at the tone of Mr. Schalk's letter, as opposed to concern about its contents, was misplaced. I can only conclude that Mr. Graydon's attitude to the mounting suspicious cash entering British Columbia casinos and his failure to even entertain the possibility that these casinos were being used to facilitate money laundering in the face of clear and convincing evidence, must have gone some way to guiding the culture and direction of BCLC during his tenure. BCLC in this period needed a leader who would prioritize safeguarding the integrity of gaming and direct clear and decisive action to investigate and combat the clear and obvious money laundering threat facing the industry. Mr. Graydon did not provide this.

I accept that Mr. Scott, in his response to Mr. Graydon, was attempting to foster a positive relationship between the two organizations. He may have been justified in his displeasure that the investigation division did not route the communication through his office or at least provide it to him for review prior to delivery. I find it unfortunate, however, that, in what I accept were Mr. Scott's genuine attempts to mend fences and maintain relationships, the gravity of the suspicious cash and money laundering problem facing British Columbia casinos appears to have been lost.

Mr. Vander Graaf testified that, following these exchanges with Mr. Scott, the investigation division's communication of its analysis and opinions to BCLC was "shut down."[465] Mr. Scott's evidence was that his direction was intended to be more limited, requiring only that he be given an opportunity to review any correspondence for tone before it was sent, to ensure that GPEB and BCLC were building a collaborative relationship.[466] I accept that it is possible that Mr. Scott did not intend his direction to be a complete "shutdown" of all communication; however, it is clear that the effect of this direction was that the investigation division ceased communicating with BCLC in this way. Given the gravity of the information communicated in Mr. Schalk's letter, Mr. Graydon's outrage at the

464 Exhibit 576, Affidavit #1 of Michael Graydon, made on February 8, 2021, exhibit D; Exhibit 181, Vander Graaf #1, paras 111–15 and exhibit JJ; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 123–38.

465 Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 136.

466 Evidence of D. Scott, Transcript, February 8, 2021, pp 96–97.

letter, Mr. Scott's apparent support for Mr. Graydon's position, and the reprimanding of the investigation division by Mr. Scott for sending pointed correspondence when that is precisely what the situation so clearly called for, it is not difficult to see why Mr. Scott's admonishment of the investigation division had a chilling effect on any further communications to BCLC.

GPEB Anti–Money Laundering in BC Gaming: Measuring Performance Progress Draft Report and BCLC Response

Despite Mr. Scott's reaction to Mr. Schalk's letter, it appears that the conclusions reached by the investigation division as to the effectiveness of cash alternatives in reducing large and suspicious cash transactions were not inconsistent with those of GPEB generally. This is reflected in a report produced by GPEB titled "Anti–Money Laundering in BC Gaming: Measuring Performance Progress." A draft of this report was shared with BCLC in March 2013. BCLC's response to this draft was consistent with the views expressed by Mr. Graydon in response to Mr. Schalk's letter and reveals ongoing division between the two organizations regarding the large cash transactions that continued to grow in the province's casinos at this time.

Anti–Money Laundering in BC Gaming: Measuring Performance Progress – Draft Report

The draft report provided to BCLC in March 2013 described efforts made in furtherance of the anti–money laundering strategy that emerged following the completion of Mr. Kroeker's report in 2011.[467] It described the various cash alternatives introduced as part of the strategy, including enhancements to PGF accounts, the availability of debit at casino cash cages, cheque holds, and convenience cheques. The report also detailed the extent to which these cash alternatives had been used since their introduction. It indicated that 67 new PGF accounts had been opened since changes were made to the accounts in April 2012, that over $89 million had been deposited and over $88 million withdrawn from PGF accounts in the first three quarters of the 2012–13 fiscal year, that buy-ins of over $2 million had been made using debit, and that more than $200,000 had been paid out to patrons using convenience cheques.

The report described the monitoring and reporting of transactions to both FINTRAC and GPEB, noting the significant increase in both the number and value of suspicious currency transactions reported to GPEB in the years leading up to the date of the report. It acknowledged that positive results had been achieved through the measures already implemented, but expressed concern about the continued increase in suspicious currency transactions:[468]

> The new initiatives of acquiring funds inside gaming facilities have grown well in the first nine months. Based on the performance measure,

467 Exhibit 524C, Anti–Money Laundering in BC Gaming: Measuring Performance Progress – draft – with comments.

468 Ibid, p 12.

> established for the Ministry Service Plan, the goal has been met for the current fiscal year.
>
> While the progress is encouraging it is challenging to the AML initiative when we observe increases of Suspicious Currency Transaction cash being brought into casinos. The volume of gaming money acquired inside the facilities is considerable, with over 70% of gaming funds being acquired inside the venues. And, the trend is positive. As new initiatives are used more and more we are seeing momentum toward achieving the goal of the program. However, the increase in [suspicious currency transaction] cash is a trend that must be turned around. While more gaming money is being obtained inside facilities more Suspicious Currency Transactions are being reported and, it is believed that, more suspicious street cash is also being brought into casinos.

The report concludes by identifying further enhancements planned for the upcoming fiscal year, including lowering the initial deposit required to open a PGF account, allowing PGF accounts to be funded through internet banking transfers and from United States bank accounts, and permitting cheques drawn on United States accounts to be used in the cheque hold program. The report also indicated that it was considering permitting patrons to access funds from foreign branches of Canadian financial institutions and that BCLC was developing a marketing plan to promote the use of cash alternatives. The report noted that additional reporting was contemplated for the end of the 2013–14 fiscal year, prior to the commencement of phase three of the anti–money laundering strategy.

BCLC Reaction to Draft Report

Evidence of BCLC's reaction to this draft report is reflected in an exchange of emails between Brad Desmarais, who had recently joined BCLC as its vice-president of corporate security and compliance after more than 30 years in law enforcement,[469] and Mr. Lightbody, and in comments added to the draft report itself by both of these individuals. These emails and comments reveal skepticism on the part of both Mr. Desmarais and Mr. Lightbody that the cash used in large cash transactions was the proceeds of crime or that these transactions were connected to money laundering.

Mr. Desmarais's views are evident from an email he sent to Mr. Lightbody on March 14, 2013, to which he attached a version of the draft report that included his comments. Mr. Desmarais wrote, in part:[470]

> It seems to me that GPEB is rushing down a path that ought to be trod much more cautiously. I've marked the report up quite a bit. You may not want to read the whole thing, but the recommendations at the end will have an effect on us and the service providers. It appears that GPEB will tie AML

469 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 45, 53.

470 Exhibit 524A, Email from Brad Desmarais to Jim Lightbody, re Measurement Report to Ministry (March 14, 2013).

> performance indicators to the reduction in cash which is misguided, in my opinion. They fail to consider the legitimate patron who simply prefers to use cash for any number of legitimate reasons.

This message is consistent with a number of comments applied by Mr. Desmarais to the draft report itself. In these comments, Mr. Desmarais asserted that it had not been proven that casinos were used for money laundering, argued that spending the proceeds of crime should not be viewed to be the same as money laundering, and suggested that increases in reports of suspicious transactions are the result of shifting reporting standards.[471] Mr. Desmarais also suggested that the use of $20 bills and the bundling of currency with elastics are not reliable indicators that funds are derived from cash facilitators and that focusing on cash may result in discrimination against "a group of legitimate, high-end patrons simply on the basis of their preference of payment method."[472] In one comment towards the conclusion of the report, Mr. Desmarais suggested that there are likely multiple factors driving the increase in suspicious cash transaction in the British Columbia casinos, and that, in his view, "money laundering / proceeds of crime is likely the least" of these:[473]

> We are really looking at 5 Casinos, in the Lower Mainland which attract the vast majority of large cash transactions, with the River Rock way out in front. I believe there are a multitude of drivers behind the use of large currency amounts at Casinos in the Vancouver area. Money Laundering / Proceeds of Crime is likely the least. Looking across the province I can't help but compare the Lower Mainland with Kelowna which has a higher crime rate than Vancouver, increasing drug offences, a relatively new Hell's Angels Chapter, a "puppet club", and an Organized Crime problem which apparently is so compelling that the Combined Forces Special Enforcement Unit (CFSEU) recently opened a branch office there. If Casinos were so attractive as a laundering tool, we should see a proportionate but dramatic increase in suspicious transactions there, and yet we haven't. In fact, there have only been 14 reported in 5 years. Similar figures apply to Prince George and Nanaimo, each of which have their own crime challenges.

At the time that he wrote this email, Mr. Desmarais had been with BCLC for approximately six weeks.[474] He indicated in his testimony before the Commission that in March 2013 – the month that he wrote this email – he was "still trying to figure out the … inbound cash landscape."[475] It is apparent from the comments made by Mr. Desmarais on the draft report that he did not view his inexperience and uncertainty about this issue as reason to show any deference to the perspectives of GPEB.

471 Exhibit 524C, Anti–Money Laundering in BC Gaming: Measuring Performance Progress – draft – with comments, pp 1–2.

472 Ibid, pp 10, 14.

473 Ibid, p 11.

474 Exhibit 522, Affidavit #1 of Brad Desmarais, affirmed on January 28, 2021 [Desmarais #1], para 16 and exhibit 1.

475 Evidence of B. Desmarais, Transcript, February 2, 2021, pp 20–21.

In his response to Mr. Desmarais's email, Mr. Lightbody indicated agreement with Mr. Desmarais's views, expressing his own skepticism regarding the validity of concerns about money laundering in the gaming industry:[476]

> Thanks for the heads up and I completely agree with all your comments. I made a couple myself (see attached), but just to reiterate that we need to hold our Service Providers [SPs] accountable for certain actions that includes dealing with players. If we jump in the middle of that, we will reduce that responsibility they must own. If, however, they meant we need to increase our policy and procedures for [SPs], that is more feasible.
>
> Overall, I think this report, if read by an outsider, would lead one to believe that money laundering is rampant in [casinos]. So, I would suggest a re-positioning of this document around "prevention" and reducing "misperception" of money laundering.

As indicated in this email, Mr. Lightbody also added his own comments to the report alongside those of Mr. Desmarais. In one of these comments, he states definitively that increases in suspicious transaction reporting were "due to a change in site staff's approach."[477] The basis for Mr. Lightbody's belief in this regard is not apparent from his comments.

While Mr. Graydon did not add his own comments to the report, it is clear from his evidence[478] and his correspondence with Mr. Scott[479] that he shared the views of Mr. Lightbody and Mr. Desmarais. In an email sent to Mr. Scott on March 26, 2013, Mr. Graydon tied his response to this report to his concerns about Mr. Schalk's letter of December 27, 2012, and made clear that he did not view large and suspicious cash transactions at the time to be cause for concern:[480]

> I do think that a good portion of the report, 80% plus, is accurate and reflects all the hard work our two organizations have gone through to move this initiative forward. It is obvious that there is some tension and direction being applied by your investigations group based on the assumptions that the problem is growing. I do not believe this and I think their perspective is based on perception and not fact. I do not think terms like "our belief" [are] well positioned in a document like this. It should be based on fact and there is very little to support their beliefs. I continue to be very pleased with the alignment in principle between you Brad and I but I am concerned regarding the investigations [group's] perspective. I know we agreed to forget Joe's letter

476 Exhibit 524B, Email from Jim Lightbody to Brad Desmarais, re Measurement Report to Ministry (March 15, 2013).

477 Exhibit 524C, Anti–Money Laundering in BC Gaming: Measuring Performance Progress – draft – with comments, p 12.

478 Evidence of M. Graydon, Transcript, February 11, 2021, pp 34–37.

479 Exhibit 557, Scott #1, exhibit 19.

480 Ibid.

> but the essence of that remains in this document and I think it impacts our collective ability to make a difference in this important area of our business. As you stated the big issue is public perception and a small group of players so we need to reinforce the measures we are taking to remedy that. Elements of this only fuel the fire and render the majority of the [report's] value insignificant if made public. I do think Bill has done a masterful job on this and given our results to date nothing wrong with a good news document with more initiatives to come. It is and will always be a dynamic process.

Mr. Scott testified that the comments made on the draft report were consistent with other statements made to him by Mr. Desmarais and Mr. Graydon and, in his view, illustrative of the "differing 'world views'" of GPEB and BCLC "regarding [anti–money laundering] issues."[481] Mr. Scott agreed in his evidence that he felt that BCLC failed to appreciate the severity of the risk associated with the volume of suspicious cash being accepted in the province's casinos.[482] He shared his observation of the evolution of BCLC's perspective on suspicious transactions during his tenure with GPEB and his response to that developing perspective as follows:[483]

> BCLC in my tenure went through sort of these two phases. The first phase was it's not our job; we're going to report. Our job is to report and it's the police's job to investigate. And then it shifted with Mr. Desmarais coming in to more seriously taking – and along, I hope, with the strategy to take action.
>
> But then in that … taking action phase this shifted from it's our job to report only to we have to have proof; there has to be proof before … we act. And that's why a key element that I introduced – I'm not sure – it would have been probably 2018 [*sic*] is we were getting hung up on this issue. It's not proof, so if it's a crime, you can't prove it. As I mentioned before, I knew that no one could prove it. It wouldn't be proven for years.
>
> So, I introduced the idea of the perception of money laundering is just as bad as money laundering. And … the analogy that I would make is … if you declare you have – we in the public service, we have to say whether we have a conflict of interest or a perceived conflict of interest. So, I was moving to the perception aspect and saying that the perception is still an integrity of gaming issue, just the perception of someone walking in with a duffel bag of cash is. And so, we have to deal with it just the same way as we have to … if we were able to prove it.
>
> And the reason for that is I had to get rid of that whole discussion because, in my view, it was a distraction. It was not relevant whether we could prove it or not. We had evidence. It was reasonable to suspect that it was coming in, and so we had an obligation to stop it.

481 Ibid, para 51; Evidence of D. Scott, Transcript, February 8, 2021, pp 49–50.

482 Evidence of D. Scott, Transcript, February 8, 2021, pp 49–50.

483 Ibid, pp 50–51.

It is difficult to understand how BCLC executives, with access to substantially the same information available to the GPEB investigation division, could come to such dramatically different conclusions regarding the significance of the suspicious transactions growing in prevalence in the province's casinos at this time. There was an obvious risk that Mr. Graydon, Mr. Lightbody, and Mr. Desmarais simply refused to acknowledge, even in the face of clear and compelling evidence revealing the nature, volume, and growth of suspicious transactions taking place in the gaming industry.

BCLC Communication with Staff Regarding Money Laundering and Suspicious Cash Transactions

As they argued against views expressed by representatives of GPEB regarding the nature and severity of the risk posed by large cash transactions in casinos, BCLC's senior management directed similar messages internally to their own employees. In these communications, BCLC consistently challenged the view that money laundering was a significant issue for the province's gaming industry and the likelihood that the proceeds of crime were being used in large cash transactions.

December 4, 2012, Remarks by Mr. Graydon

The first instance of such communication came in remarks made by Mr. Graydon at a December 2012 meeting of BCLC's legal, investigation, and compliance staff, referred to earlier in this chapter. Mr. Hiller, who attended this meeting, described Mr. Graydon's remarks and his own reaction to them in his affidavit:[484]

> I recall a speech made by Michael Graydon, who was then BCLC's CEO, at an annual meeting of BCLC legal, investigation, and compliance staff on December 4, 2012. In his speech, Mr. Graydon expressed his disagreement with the way the media was portraying the issue of money laundering in casinos. While I agreed with Mr. Graydon that the media's portrayal of the issuance of verified win cheques was inaccurate, I noted that Mr. Graydon did not comment further on the reports of bags of cash coming in to casinos. I had hoped he would address these reports because, without further clarification, my impression was that he was implying that the reporting on the bags of cash was wrong.

As explained previously in this chapter, Mr. Hiller went on in his evidence to describe raising his concerns about Mr. Graydon's speech with Mr. Towns the following day and the unsympathetic response he received from Mr. Towns.[485]

2013 Journalist Presentations

After Mr. Desmarais succeeded Mr. Towns as BCLC's vice-president of corporate security and compliance, similar messaging from the senior levels of BCLC continued.

484 Exhibit 166, Hiller #1, para 83.

485 Ibid, para 84.

This included two presentations by a journalist, both described in Mr. Hiller's evidence, in February and December 2013.[486]

According to Mr. Hiller, the first presentation, which took place at BCLC's Vancouver office on February 20, 2013, related to the importation of cash by Chinese nationals through the Vancouver airport, which the journalist suggested as a possible source of the large volumes of cash accepted by the province's casinos.[487] Mr. Hiller gave evidence that he was unconvinced that this was the source of the funds observed in casino transactions and that he found it odd that the presentation included figures in Canadian dollars.[488] During a break in the presentation, Mr. Hiller phoned a contact at the Canada Border Services Agency (CBSA) and learned that the majority of the $12 million seized by CBSA at the Vancouver airport in the previous year was in US dollars, with only approximately $200,000 in Canadian currency.[489] Mr. Hiller also learned that cash physically imported through the airport tended to be in amounts ranging from $12,000 to $15,000, not the larger amounts observed in the large cash transactions of concern to Mr. Hiller.[490] At the conclusion of the presentation, Mr. Hiller informed the journalist who was presenting of what he had learned from his contact at the CBSA and expressed his view that it was unlikely that cash imported through the Vancouver airport was the source of the funds used in large cash transactions in casinos.[491] Mr. Hiller later emailed Mr. Desmarais to relay the information he had learned from his CBSA contact.[492] Mr. Desmarais testified that he did not agree with Mr. Hiller in this regard.[493]

Mr. Hiller testified that, on December 3, 2013, he attended a second presentation by the same journalist, this time held at the River Rock Casino Resort. Mr. Hiller described the second presentation as an extended version of the February presentation.[494] The journalist was introduced by Mr. Desmarais on this occasion.[495]

Mr. Desmarais's Yak *Articles*

Following the first of these two presentations, and extending into 2014, Mr. Desmarais authored a series of articles on the subject of money laundering that appeared in an internal BCLC newsletter known as the *Yak*. This newsletter is posted on BCLC's internal website and available to all BCLC employees.[496] Like the presentations described above, the intention underlying these articles seemed to be to persuade BCLC employees that money laundering was not a significant issue in the province's casinos and that media reporting on this subject was inaccurate.

486 Ibid, paras 77–81 and exhibits O, P, Q.

487 Ibid, para 77; Evidence of M. Hiller, Transcript, November 9, 2020, p 54.

488 Exhibit 166, Hiller #1, para 78; Evidence of M. Hiller, Transcript, November 9, 2020, pp 55–56, 117–18.

489 Exhibit 166, Hiller #1, para 78; Evidence of M. Hiller, Transcript, November 9, 2020, pp 55–56.

490 Evidence of M. Hiller, Transcript, November 9, 2020, p 119.

491 Exhibit 166, Hiller #1, para 179; Evidence of M. Hiller, Transcript, November 9, 2020, p 56.

492 Evidence of B. Desmarais, Transcript, February 2, 2021, pp 12–14.

493 Ibid.

494 Exhibit 166, Hiller #1, para 81.

495 Ibid.

496 Evidence of M. Hiller, Transcript, November 9, 2020, p 57; Exhibit 522, Desmarais #1, para 62.

The first such article, titled "Money Laundering in Casinos? Not Really" was dated May 21, 2013.[497] In this article, Mr. Desmarais explained, among other things, his view as to why money laundering was unlikely to occur within British Columbia casinos.[498] He identified the notion that money laundering is "rampant" in the province's casinos as a myth, described what money laundering is, and explained how, in his view, security measures in place in casinos would make them unattractive locations in which to launder money.

In his evidence, Mr. Desmarais testified that this article was intended to address those "who were culpable and chargeable for laundering money" as opposed to those who may unwittingly bring proceeds of crime into casinos.[499] This explanation does not seem consistent with the content of the article, however, which directly addresses the issue of large cash transactions. The fifth paragraph of the article begins by posing the question, "But what about all that cash, you ask?" It acknowledges that the answer to this issue is complex and requires further analysis but suggests that possible explanations may include cash imported through the Vancouver airport, preferences for the use of cash among some cultural groups, and the use of cash generated by legitimate, cash-based businesses.[500]

On September 5, 2013, a second article authored by Mr. Desmarais was published in the *Yak* newsletter, this one titled "Changing the Way We Look at Cash."[501] While Mr. Desmarais acknowledged in this article that there are risks associated with cash, he cast skepticism on the notion that large amounts of cash are associated with organized crime:

> When BCLC first conducted and managed casino gaming in BC, players were encouraged to play with cold hard cash. On the face of it, it seemed like a good idea.
>
> A single payment option. Cash in, cash out. What could be simpler?
>
> As it turns out, it is very complicated and the significant amounts of cash coming through the doors of casinos come with risks that perhaps were not well understood in the beginning.
>
> Among the top risks that BCLC and the casino service providers face is reputation management. For example, the large amounts of cash at casinos [are] often erroneously associated with organized crime.

Mr. Desmarais goes on in this article to identify other detrimental aspects of the use of cash in casinos, including an increased regulatory burden, that patrons may be

497 Evidence of M. Hiller, Transcript, November 9, 2020, p 57; Exhibit 166, Hiller #1, exhibit S; Exhibit 522, Desmarais #1, para 63 and exhibit 37.

498 Exhibit 522, Desmarais #1, para 63.

499 Evidence of B. Desmarais, Transcript, February 1, 2021, p 76.

500 Exhibit 166, Hiller #1, exhibit S.

501 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 78–79; Exhibit 522, Desmarais #1, para 64, exhibit 38.

criticized for using cash, and the security risk for patrons associated with carrying large amounts of cash. He does not acknowledge the possibility that large amounts of cash may have *accurately* been associated with organized crime.

In November 2014, Mr. Desmarais wrote a further two-part article along a similar vein, titled "Setting the Record Straight on Money Laundering in BC Casinos."[502] This article will be discussed in detail later in this chapter.

Security and Anti–Money Laundering Enhancements by BCLC and Great Canadian

While these BCLC communications downplayed the risk of money laundering in the gaming industry and resisted the notion that the funds used in large and suspicious transactions were the proceeds of crime, these attitudes did not seem to preclude BCLC from taking some limited action to combat the risk of money laundering in the industry. In 2013, both BCLC and Great Canadian took steps to enhance their efforts to respond to these risks and to improve casino security. BCLC established a new anti–money laundering unit within Mr. Desmarais's portfolio, while Great Canadian made significant enhancements to security at the River Rock Casino and implemented monitoring of suspicious transactions.

Creation of BCLC Anti–Money Laundering Unit

In or around October 2013, BCLC established a new internal anti–money laundering unit.[503] Mr. Lightbody described the creation of the unit and its function as follows:[504]

> In 2013, BCLC under the stewardship of Mr. Desmarais created an Anti–Money Laundering Unit ("AML Unit") which was responsible for reviewing and monitoring existing AML measures and implementing further AML measures to respond to identified risks. It has the authority to act independently, including barring certain patrons, advising casino service providers not to accept cash from certain patrons, and working closely with regulatory and law enforcement agencies, including weekly meetings to discuss high value customers and transactions. The BCLC AML Unit used open source data points and information received through an information-sharing agreement with the RCMP to check for potential risks.

502 Exhibit 522, Desmarais #1, para 65, exhibits 39–40.

503 Exhibit 505, Lightbody #1, para 82; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 75–77; Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 1–3, 136; Exhibit 148, Tottenham #1, para 77; Exhibit 522, Desmarais #1, para 25; Evidence of R. Barber, Transcript, November 3, 2020, p 106; Evidence of M. Hiller, Transcript, November 9, 2020, pp 125–26; Exhibit 78, Beeksma #1, para 55; Evidence of S. Beeksma, Transcript, October 26, 2020, p 143; Evidence of G. Friesen, Transcript, October 28, 2020, p 164; Evidence of R. Alderson, Transcript, September 9, 2021, p 126.

504 Exhibit 505, Lightbody #1, para 82.

In his own evidence, Mr. Desmarais expanded upon this rationale for establishing the dedicated unit.[505] He indicated that, while he was content with the state of BCLC's reporting to FINTRAC, he believed that there was a need for BCLC "to do more."[506] Mr. Desmarais also understood that legislative changes planned for February 2014 would impact BCLC's anti–money laundering obligations.[507]

Mr. Karlovcec, who was hired as the anti–money laundering unit's first manager,[508] identified these legislative changes as the primary rationale underlying the development of the new unit, but agreed that increases in cash transactions played some role in motivating its creation.[509] Mr. Karlovcec expanded upon the nature of the new obligations created by this legislative change, explaining that they required BCLC to engage in ongoing monitoring of activities of patrons with whom it had a "business relationship," including patrons with PGF accounts and those who had engaged in two or more transactions in which BCLC was required to collect the patron's identification.[510]

The anti–money laundering unit was initially established with a staff that included Mr. Karlovcec, who continued to report to Mr. Friesen,[511] Mr. Tottenham, who was hired as an "anti–money laundering specialist,"[512] and two analysts.[513] Mr. Tottenham testified that the unit was well supported by BCLC, receiving both encouragement and significant resources from BCLC's management.[514] Mr. Tottenham's evidence in this regard is consistent with Mr. Lightbody's evidence of the support provided to the anti–money laundering unit during his tenure as president and CEO of BCLC.[515]

Mr. Beeksma, who was working as a BCLC investigator at the time the anti–money laundering unit was established and would go on to join the unit in 2016,[516] gave evidence that the unit initially established a strategy of focusing on patrons' sources of wealth.[517] He explained that, if a patron had access to a legitimate source of wealth that allowed them to gamble at the levels at which they were playing – and did not appear to be engaged in criminal activity – BCLC considered it plausible that the patron's funds were legitimate.[518] Mr. Beeksma explained that he understood that the source of funds a patron used to buy-in were of less concern to BCLC at the time:[519]

505 Evidence of B. Desmarais, Transcript, February 2, 2021, pp 75–77.

506 Ibid, pp 75–76.

507 Ibid, p 76.

508 Evidence of J. Karlovcec, Transcript, October 30, 2020, p 3.

509 Ibid, pp 2–3.

510 Ibid, pp 5–6.

511 Evidence of G. Friesen, Transcript, October 28, 2020, p 164.

512 Evidence of J. Karlovcec, Transcript, October 30, 2020, p 4; Evidence of D. Tottenham, Transcript, November 4, 2020, p 53; Exhibit 148, Tottenham #1, para 77.

513 Evidence of J. Karlovcec, Transcript, October 30, 2020, p 4; Evidence of D. Tottenham, Transcript, November 4, 2020, p 60.

514 Exhibit 148, Tottenham #1 para 78.

515 Exhibit 505, Lightbody #1, paras 85–86.

516 Exhibit 78, Affidavit #1 of Steve Beeksma, affirmed on October 22, 2020, para 84.

517 Ibid, paras 55–56.

518 Ibid, para 55.

519 Ibid, para 57.

> While players' source of wealth was a concern at this time, the source of the players' cash was less of a concern. I felt that the attitude of BCLC's management was that unless we had conclusive information from law enforcement confirming that cash from a specific individual was suspicious, the casinos could accept it. I believe the thought process of BCLC's management was that if reports were going to GPEB and to law enforcement, and if they were not taking any action to address what was contained in the reports, then why should the cash not be accepted?

BCLC's Response to the Evolution of a Cash Facilitation Network

Mr. Tottenham testified that the first project undertaken by the anti–money laundering unit following its formation was the development of an information package concerning the activities of Paul Jin, which could be presented to law enforcement to convince them to take enforcement action.[520]

Mr. Jin first came to the attention of BCLC as a cash facilitator in 2012 (though he was a known casino patron prior to that, with Mr. Lee commenting that he was "constantly in the background" and seemed to know everyone in the casino).[521] Beginning in 2012, Mr. Jin was frequently observed bringing large amounts of cash into BC casinos. BCLC investigators "worked to learn what they could about Mr. Jin" by reviewing video surveillance, acquiring vehicle information, tracking the casino activities of Mr. Jin's associates, speaking to law enforcement, and looking at open-source information such as corporate records.[522] Eventually, they determined that Mr. Jin appeared to be running a cash facilitation operation.[523]

On September 26, 2012, Mr. Jin was issued a Notice of Prohibition barring him from all casinos, community gaming centres, and commercial bingo halls in the Province of British Columbia for a period of one year.[524] During the course of that ban, he continued to make cash drop-offs at or near BC casinos, including one occasion where he attended at the Starlight Casino and handed a patron a bag that was found to contain $150,000 in $20, $50, and $100 bills.[525]

On November 7, 2012, Mr. Jin was issued another Notice of Prohibition barring him from all casinos, community gaming centres, and commercial bingo halls in the Province of British Columbia for a period of five years.[526] However, investigators

520 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 60–61.

521 Exhibit 87, S. Lee #1, para 47.

522 Ibid; Exhibit 148, Tottenham #1, para 35.

523 Exhibit 148, Tottenham #1, para 35.

524 Ibid, exhibit 2.

525 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 43–44; Exhibit 148, Tottenham #1, exhibit 3.

526 Exhibit 148, Tottenham #1, exhibit 2.

continued to observe Mr. Jin and his associates delivering cash and chips to patrons at BC casinos.

Over a three-year period between 2012 and 2015, BC casinos received approximately $376 million in suspicious cash, including $279 million in $20 bills.[527] Mr. Tottenham testified that the majority of the cash facilitation activity that BCLC was observing during this period was tied to Mr. Jin or his network.[528] He also testified that in every case where BCLC sought to link a particular patron to cash facilitation activity in or around BC casinos, it was linked to Mr. Jin or his network.[529]

At one point, Mr. Jin and his associates appeared to have "taken up residence" in a hotel room on the 11th floor of the River Rock, which was used as a congregation point for their cash facilitation activity:

> [W]e were starting to see rooms … in the hotel being used as congregation points and people going up and down, meeting people that are on ban lists who would go in prior to them and then leave, and then the person would come in and then come back out and go down to the floor.[530]

A review of individual occurrences also lends some insight into the scale of the cash facilitation activity occurring at BC casinos. On September 24–25, 2014, for example, a patron made two $500,000 cash buy-ins at the River Rock Casino. Mr. Tottenham testified that this patron was known to receive cash deliveries from Mr. Jin, his known associates, or persons driving his vehicles.[531] The patron initially bought-in for $50,000 in $100 bills but exhausted those chips. At approximately 11 p.m., he made a telephone call, left the casino, and entered a waiting vehicle. The patron returned a short time later with a black suitcase and a brown bag and used the cash contents of those bags to make a cash buy-in of $500,040. The cash consisted entirely of $20 bills, which were bundled and secured with elastic bands inside silver plastic bags.[532] By approximately 1 a.m., the patron had lost all or most of the $500,000. He made another call, left the casino, and interacted with two males outside a waiting vehicle. The patron subsequently returned with another suitcase filled with approximately $500,030, which he used to make a further cash buy-in. Almost all the cash was in $20 bills, bundled and secured with elastic bands in silver plastic bags.[533] Mr. Barber testified that this was a

527 Exhibit 906, John Mazure and Len Meilleur, Provincial AML Strategy (August 2017), p 3.

528 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 95, 123. While Mr. Tottenham was referring to cash facilitation activity observed by BCLC at or near BC casinos (such as cash drop-offs in casino parking lots), evidence from the E-Pirate investigation indicates that Mr. Jin was heavily involved in cash facilitation activity outside the casino environment. For example, he was frequently observed giving small bags to casino patrons at various locations throughout the Lower Mainland and withdrew almost $27 million from Silver International over a five-month period between June 1 and October 15, 2015. A full discussion of the E-Pirate investigation can be found in Chapter 3.

529 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 122–23.

530 Ibid, p 96. See also Evidence of P. Ennis, Transcript, February 3, 2021, p 146.

531 Exhibit 148, Tottenham #1, exhibit 6; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 81–82.

532 Exhibit 145, Barber #1, exhibit E, p 10.

533 Ibid, pp 10–11.

"fairly typical transaction in that time period."[534] He also indicated that there may have been five or six similar events on that same night:

> [S]o this was an interesting case. It had many obvious factors indicating money laundering and perhaps other offences, but there might have been on that same night another five or six very similar events.[535]

BCLC's initial response to the problem was to try to identify the individuals involved in the cash facilitation activity so they could be banned from casinos. However, it "quickly found" that identifying and banning members of Mr. Jin's network did not help, because they were easily replaced and, in any event, were not coming into the casinos.[536]

BCLC's next step was to take active steps to bring its concerns to the attention of law enforcement. In 2014, for example, Mr. Tottenham and others met with investigators with CFSEU. The purpose of that meeting was to "engage them to come help us, to come investigate and deal with [the issue] because we were at a loss [as to how] to … effectively deal with it."[537] At approximately the same time, BCLC compiled a package of its "Top 10 casino cash facilitator targets," which was provided to CFSEU in order to assist in conducting surveillance. The information included in that package included "tombstone" information such as names, driver's licence numbers, occupations, addresses, and vehicle information. It also included photographs of each target.[538]

Over the next few months, Mr. Tottenham repeatedly followed up with CFSEU to urge an investigation into the individuals he identified. He described this as a "rattle-the-chain moment" where he was trying to determine whether they were "actually going to engage and do a project."[539] Eventually, he was told that CFSEU's focus was on guns and gangs, not proceeds of crime, and while they might re-engage if they had time, they were tied up with other projects and were therefore unable to assist.[540]

While BCLC's efforts to get the attention of law enforcement are commendable, it is important to note that it continued to allow the acceptance of cash that was the focus of its suspicions. Moreover, it did not place a single patron on sourced cash conditions until November 2014 (several months after it first approached CFSEU) and did not expand that program beyond two patrons until August 2015.[541]

534 Evidence of R. Barber, Transcript, November 3, 2020, p 29.

535 Ibid, p 31. For other, similar incidents occurring during this period, see Exhibit 79, Affidavit #2 of S. Beeksma, affirmed October 22, 2020.

536 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 62–63.

537 Ibid, pp 65–66.

538 Exhibit 148, Tottenham #1, exhibits 27–37. See also Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 21–23.

539 Evidence of D. Tottenham, Transcript, November 4, 2020, p 67.

540 Ibid, pp 67–68; Exhibit 148, Tottenham #1, para 118. See also Evidence of J. Karlovcec, Transcript, October 30, 2020, p 25

541 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 80–82 and Transcript, November 10, 2020, pp 85–86.

Its failure to do so is particularly troubling given that (a) the majority of the high-level cash facilitation activity they were seeing during this period was tied to Mr. Jin or his network, and (b) BCLC was well aware of the patrons who were (often repeatedly) receiving large amounts of suspicious cash from Mr. Jin and his associates. Based on that information, it would not have been difficult for BCLC to impose a sourced cash condition on the patrons known to receive cash from Mr. Jin, as it did in 2015, when it received information concerning Mr. Jin's organized crime connections from the RCMP and began to expand its sourced cash conditions program by imposing source-of-cash conditions on known recipients of Mr. Jin's cash. I return to this issue in Chapters 11 and 14.

Great Canadian Gaming Corporation Security Enhancements

In the same year that BCLC established its anti–money laundering unit, Great Canadian also took steps to enhance security at the River Rock Casino and its monitoring of suspicious cash transactions.

Enhancements to River Rock Surveillance System

In 2013, Great Canadian undertook an $8 million upgrade to the River Rock surveillance room and camera system.[542] Mr. Ennis, then Great Canadian's director of surveillance, was responsible for developing the proposal for this upgrade.[543] Mr. Ennis gave evidence that he routinely exceeded the minimum requirements established by BCLC in developing surveillance systems for Great Canadian casinos.[544] With respect to the River Rock in particular, Mr. Ennis offered the following explanation when asked how the casino's surveillance system exceeded BCLC's requirements:[545]

> [W]e had more cameras on the gaming floor than were required. There's a minimum level [that] needs to be on top of gaming tables and covering certain areas and we always had more than was necessary. As well as in our parking areas, we went to an extreme to ensure that our customers were safe and that we could monitor activities in the parkades, parking lots. Parkades can be issues with people hanging around and public safety concerns, so there was no expense spared there. Also, the hotel … had cameras all over the hotel, more than you would find in most hotels, in hallways and elevators and lobby areas. The theatre had cameras in it that we could live monitor activities in there. It was from my experience a much higher level of coverage than you would find in most casino operations.

Mr. Ennis went on to explain that BCLC had no requirements for camera coverage in hotels and that, while BCLC's standards referred to cameras in parking lots, those at the River Rock exceeded those standards.[546] Asked why Great Canadian opted to install

542 Evidence of P. Ennis, Transcript, February 3, 2021, pp 79–80.

543 Evidence of P. Ennis, Transcript, February 3, 2021, p 80.

544 Exhibit 530, Ennis #1, para 39.

545 Evidence of P. Ennis, Transcript, February 4, 2021, p 9.

546 Ibid, pp 9–10.

better and more expensive camera systems than required by BCLC, Mr. Ennis explained that it was "part of our corporate culture, ensuring public safety and making sure that our customers were safe."[547]

Suspicious Transaction Monitoring

In addition to these enhancements to the River Rock's surveillance system, Great Canadian also increased its monitoring of suspicious transactions in 2013. In December 2012, Mr. Kroeker joined Great Canadian as its vice-president of compliance and legal.[548] Mr. Kroeker described in his affidavit the monitoring he implemented in 2013 and the initial results of that monitoring:[549]

> By 2013, I had set up our own monitoring of large cash transactions ("LCTs") and the individuals involved in those transactions at GCGC. I asked the compliance team at GCGC to start tracking monthly table revenue rates as compared to [suspicious transaction reports] and to track cash buy-ins made predominantly in $20 bills.
>
> This monitoring showed that [suspicious transaction report] rates for [Great Canadian] properties were trending in parallel to business levels for table games on a month-to-month basis. This trend suggested there was less cause for concern than if [suspicious transaction reports] had been increasing while business was remaining flat or declining. In other words, I believed that if money laundering was on the rise, the increase in cash would not tend to correlate with business levels. This trending was not interpreted to mean that money laundering did not exist, but rather provided further information and a data point on the money laundering risk faced.
>
> I also recall that the number of [large cash transactions] involving mostly $20 bills was trending down until December 2013, at which time there was an uptick.

I am not persuaded that Mr. Kroeker's reasoning in this regard was sound. That suspicious cash was increasing at the same time that business was growing does not preclude the possibility that "money laundering was on the rise." It seems entirely possible to me that both business and money laundering could have grown at the same time or that the growth in business was attributable to an increase in activity connected to money laundering.

Mr. Kroeker explained in his evidence that it was his understanding that the rationale for focusing on $20 bills was that they were an area of particular concern for GPEB.[550]

547 Ibid, p 10.

548 Exhibit 490, Affidavit #1 of Robert Kroeker, made on January 15, 2021 [Kroeker #1], para 32.

549 Ibid, paras 41–43.

550 Ibid, para 43; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 96–97.

Appointments of Michael de Jong and John Mazure

2013 also saw turnover in important positions within government with responsibility for oversight of the gaming industry. Following the May 2013 provincial election, Michael de Jong, already the minister of finance, was appointed minister responsible for gaming.[551] A few months later, Mr. Scott departed his position as general manager of GPEB and was replaced by John Mazure.[552]

Appointment of Michael de Jong as Minister Responsible for Gaming

The third of Mr. Coleman's three tenures as minister responsible for gaming ended following British Columbia's May 2013 general election. He was replaced in this role by Minister of Finance Michael de Jong.[553] In his evidence, Mr. de Jong advised that he had no background or experience with the gaming industry at the time he assumed conduct of this portfolio.[554] Mr. de Jong indicated that, upon assuming this responsibility, he received briefings from BCLC and GPEB.[555] He recalled being advised at that time that "anti–money laundering and anti–money laundering initiatives" were high priorities for both organizations.[556]

In evidence before me is an "estimates note" dated June 14, 2013 – very early in Mr. de Jong's tenure in this role – which provides some insight into the substance of the advice being provided to Mr. de Jong at this time.[557] Mr. de Jong explained in his evidence that estimates notes are documents prepared by the civil service to assist cabinet ministers in preparing for "estimates debates" that take place in the Legislative Assembly following the introduction of the government's budget.[558] This estimates note, titled "Anti–Money Laundering and FINTRAC Compliance" and signed by both Mr. Graydon and Mr. Scott, begins with the following four bullet points under the heading "Advice and Recommended Response":

- The anti–money laundering policies and procedures in place at all B.C. casinos are among the most stringent of any jurisdiction in Canada.
- The Ministry is working with the gaming industry to prevent criminal attempts to legitimize illegal proceeds of crime in gaming facilities in

551 Evidence of M. de Jong, Transcript, April 23, 2021, pp 2–3.

552 Exhibit 557, Scott #1, para 9; Exhibit 541, Affidavit #1 of John Mazure, sworn on February 4, 2021 [Mazure #1], para 5.

553 Evidence of M. de Jong, Transcript, April 23, 2021, pp 2–3; Evidence of R. Coleman, Transcript, April 28, 2021, pp 11, 86, 124, 190.

554 Ibid, p 7.

555 Ibid, pp 5–6.

556 Evidence of M. de Jong, Transcript, April 23, 2021, pp 7–8.

557 Exhibit 931, Advice to Minister Estimates Note, re Anti Money–Laundering and FINTRAC Compliance (June 14, 2013).

558 Evidence of M. de Jong, Transcript, April 23, 2021, pp 57–58.

the province. We remain committed to managing gaming activities to protect the public interest and ensure public safety.

- BCLC conducts internal reviews of its anti–money laundering program, commissions independent audits and is audited by the Gaming Policy and Enforcement Branch (GPEB) and FINTRAC.

- Last year, facility-based gaming generated $1.6 billion in gross revenue and it remains primarily a cash-based business in B.C.; however, GPEB and BCLC have taken significant measures to provide more cash-free alternatives.

The advice contained in this document is consistent with that reflected in documents provided to Mr. Coleman approximately one year earlier when Mr. Coleman returned to the portfolio, succeeding Ms. Bond.[559]

Based on these documents and Mr. de Jong's evidence, it is clear to me that while Mr. de Jong may have been advised that anti–money laundering was a high priority for GPEB and BCLC at this time, neither organization was advising either minister, around the time of this transition, that large and suspicious cash transactions were increasing rapidly. Nothing in this note, or the advice given to the new gaming minister at this time, even hinted at the belief held by the GPEB investigation division that British Columbia casinos were being used to facilitate the laundering of vast sums of illicit cash. The nature of the advice given to Mr. de Jong from BCLC and GBEB continued to paint a relatively positive, and in some respects, misleading picture for some time. As I discuss in Chapter 11, the nature of the advice provided to Mr. de Jong by GPEB would change dramatically approximately two years into his tenure in this role.

Appointment of John Mazure as General Manager of GPEB

In September 2013, shortly before BCLC established its anti–money laundering unit, Mr. Scott left GPEB for another position in government and was replaced by John Mazure.[560] Prior to joining GPEB, Mr. Mazure had worked in the Ministry of Environment and had no previous experience with the gaming industry.[561] Mr. Mazure remained with GPEB until June 2018.[562]

Mr. Mazure gave evidence that, upon joining GPEB, he sought to familiarize himself with his new organization and industry by touring gaming facilities and

559 Evidence of R. Coleman, Transcript, April 28, 2021, pp 67–84; Exhibit 927, Advice to Minister, Issues Note, re Large Cash Transaction Reporting (February 23, 2012); Exhibit 928, Advice to Minister, Confidential Issues Note, re Anti–Money Laundering Strategy Update (February 23, 2012); Exhibit 929, Advice to Minister, Issues Note, re Gaming Review AML Measures at BC Facilities (February 23, 2012); Exhibit 930, Advice to Minister, Issues Note, re BCLC's Anti–Money Laundering Measures (February 23, 2012).

560 Exhibit 557, Scott #1, para 9; Exhibit 541, Mazure #1, para 5.

561 Exhibit 541, Mazure #1, paras 3, 9; Evidence of J. Mazure, Transcript, February 5, 2021, pp 3–5.

562 Exhibit 541, Mazure #1, para 5.

meeting with GPEB staff, BCLC representatives (including Mr. Graydon), and service provider representatives.[563] Through these efforts, Mr. Mazure learned that anti–money laundering had been identified as one of GPEB's two highest priorities at the time, alongside e-gaming, though responsible gaming soon also became a high-priority issue following receipt of a related report from the public health officer.[564]

Mr. Mazure testified that Mr. Vander Graaf raised his concerns about suspicious cash transactions with him shortly after he joined GPEB and that this became a frequent topic of conversation between the two.[565] Mr. Mazure understood that Mr. Vander Graaf's concern was that the cash identified as suspicious that was used in transactions in casinos was the proceeds of crime and that his focus in addressing this issue was placing restrictions on the use of $20 bills in casinos.[566] Mr. Mazure testified that he understood that there was significant frustration within the investigation division at the time, and in particular on the part of Mr. Vander Graaf and Mr. Schalk. This frustration related to what Mr. Vander Graaf and Mr. Schalk perceived to be the limits of their authority under the *Gaming Control Act* and their failure to achieve meaningful results in responding to what they firmly believed to be elevated levels of criminal proceeds in the province's casinos.[567]

Mr. Mazure explained in his evidence that it took several months for him to develop his own views regarding suspicious cash transactions in the gaming industry.[568] He understood from reports of findings provided to him by Mr. Vander Graaf that suspicious transactions were increasing, but testified that there was significant debate as to why this was occurring.[569] Within GPEB itself, there seemed to be general agreement that cash alternatives alone "were not working," but there was uncertainty as to the magnitude of the problem posed by suspicious transactions and the possible solutions.[570] Mr. Mazure suggested that there was greater diversity of views emanating from outside of GPEB, including from sources within BCLC.[571] These views included that there could be no money laundering in the province's casinos because patrons who brought large quantities of cash into casinos typically lost it; that the use of cash was connected to cultural preferences; that the presence of large quantities of $20 bills was not abnormal, as it was the most common denomination in Canada; that the cash had been physically imported from China; and that the increase in reports of suspicious transactions was the result of greater service provider diligence in reporting.[572]

563 Ibid, paras 11–13; Evidence of J. Mazure, Transcript, February 5, 2021, p 5.

564 Evidence of J. Mazure, Transcript, February 5, 2021, pp 6–7.

565 Ibid, pp 8–9; Exhibit 541, Mazure #1, paras 46–48.

566 Ibid, pp 10–11.

567 Exhibit 541, Mazure #1, paras 29–31; Evidence of J. Mazure, Transcript, February 5, 2021, pp 79–80.

568 Evidence of J. Mazure, Transcript, February 5, 2021, pp 14–15, 21–23.

569 Ibid.

570 Ibid, pp 19–20.

571 Evidence of J. Mazure, Transcript, February 5, 2021, pp 20–22; Exhibit 541, Mazure #1, para 52.

572 Evidence of J. Mazure, Transcript, February 5, 2021, pp 21–24; Exhibit 541, Mazure #1, para 52.

As the rate of suspicious transactions continued to increase, Mr. Mazure was eventually persuaded that there was cause for legitimate concern associated with these transactions.[573] Mr. Mazure remained uncertain, however, as to the magnitude of this problem and was unconvinced that every dollar reported as suspicious had originated from illicit activity.[574]

At the time that Mr. Mazure joined GPEB, the three-phase anti–money laundering strategy developed during Mr. Scott's tenure was already in place.[575] Mr. Mazure testified that he eventually formed the view that the three phases would have ideally all taken place at the same time.[576] By the time of his arrival, however, the first two phases had already been implemented and the cross-divisional working group established during Mr. Scott's tenure was beginning to shift its focus from cash alternatives to possible regulatory responses, as contemplated in phase three of the strategy.[577] While Mr. Scott clearly anticipated that phase three would involve, at least, GPEB investigators interviewing casino patrons about their source of funds, Mr. Mazure appeared to be unaware of this intention. In his view, the "slate was clean" and "[i]t was up to us to figure it out, and that's what we were trying to do in the balance of 2014."[578] As indicated above, the original timeframe for implementation of phase three was December 2013.

September 2013 GPEB Investigation Division Meeting

While Mr. Mazure did not seem to be aware that the anti–money laundering strategy had originally contemplated GPEB investigators interviewing patrons about large and suspicious cash transactions as part of phase three, this possibility had not been lost on Mr. Vander Graaf. Seemingly as part of GPEB's general efforts to identify potential phase three action, Mr. Vander Graaf initiated a discussion with the members of the investigation division about what, if any, additional steps the division could take in response to these transactions. On September 24, 2013, Mr. Vander Graaf sent an email to the members of his division, summarizing the actions taken by the division in recent years to address this issue, expressing his view that the cash alternatives strategy had failed, and seeking input as to what the division could do as GPEB entered phase three of the strategy:[579]

> In the past number of months (or years depending how you look at it) this Division has collected data, prepared Reports of Findings and given observations to the Branch and others on suspected money laundering in Casinos in BC. It should be noted that the "Money Laundering Alarm" was sounded many years earlier by this Division (written solutions were outlined

573 Evidence of J. Mazure, Transcript, February 5, 2021, p 24.
574 Ibid.
575 Ibid, pp 30–31.
576 Ibid, pp 31–34.
577 Ibid, pp 11, 19, 30–31.
578 Ibid, p 34.
579 Exhibit 181, Vander Graaf #1, exhibit D.

> in 2008) but were not addressed. As a result of the "Kroeker Report" (2011) and Press coverage on the money Laundering issue the Branch decided to form the AML group to address the horrendous influx of unexplained cash into the Casinos in BC. As you are aware this cash was being brought into and continues to be brought into the Casinos by gamblers in volumes such as, $200,000 in $20 dollar bills. It has been written and reported on by this Division on many occasions that the origins of the majority of this cash is from loan sharks. It has also been reported on that the loan sharks receive the cash from various Organized Crime Groups.
>
> The Branch implemented the AML Strategy in 2011 and the objective was, "The Gaming industry will prevent money laundering in gaming by moving from a cash based industry as quickly as possible and scrutinizing the remaining cash for appropriate action. This shift will respect or enhance our responsible gambling practices and the health of the industry."
>
> The Investigation Division management were open advisors to the AML Group and provided strong written recommendations (not always accepted). We also continued to provide cash volume statistics and analytical data that we prepared from the Section 86 Reports on Suspicious Currency Transactions submitted by Service Providers. A multitude of enhancements have been provided by Branch Policy to attempt to move from a cash based industry, however it is our opinion those initiatives have not reduced the volume of suspicious cash nor the number of Suspicious Currency Transactions. In fact they are increasing.
>
> You are on the ground on this matter and as the Branch enters into the final phase of the AML strategy I would like your input and suggestions, if any, on this issue. I feel this is an important juncture in AML and I am hoping that with even this short notice you can all attend.

The members of the investigation division's casino unit met the following day.[580] In a lengthy email sent on September 26, the day after this meeting, Mr. Vander Graaf summarized the discussion and outcomes of the meeting.[581] While the email does not indicate any actions the division identified that it *could* take to enhance its response to large and suspicious cash transactions, it makes clear that there was a consensus among the investigators that they could not "investigate" money laundering. According to Mr. Vander Graaf's email, the investigators believed that they lacked the capacity to undertake such investigations and that any attempt to do so would put investigators in danger. Continuing to describe the meeting, Mr. Vander Graaf indicated that he proposed to investigators the following scenario:

> I asked the question whether GPEB investigators could intercept the gambler at the cash cage in the casino (while the cash is being counted)

580 Exhibit 144, Ackles #3, exhibit F.

581 Ibid.

> and by whatever (I did not discuss logistics at this time) means speak with him and ask two questions: "Where did you get the cash" and if answered "what is it costing you". Should he refuse to answer the subject would not be pushed and we would let the gambler continue on. At no time would we seize the money. Should he provide an answer further probing could be completed. This information alone would certainly not be of use or of value in criminal court nor in administrative court and would be as confidential as possible, although difficult. The admission that the funds came from a loan shark or "money lender" could, from my perspective, be of significant value. I won't comment further in this email on that value.

Even this limited effort to gather information about the source of funds used in large cash transactions in casinos seems to have been beyond the risk tolerance of GPEB's investigators. Mr. Vander Graaf explained in his email that "the casino unit and others felt that even interviewing the gambler would/could put our investigators at risk and could be a serious safety hazard."

The conclusion reached at this meeting is consistent with the evidence of multiple witnesses connected to the GPEB investigation division that GPEB investigators in the Lower Mainland generally did not interview casino patrons about the source of funds the patrons used to buy-in during this time period. While there may have been isolated incidents in which such interviews occurred,[582] Mr. Vander Graaf,[583] Mr. Schalk,[584] Mr. Dickson,[585] Mr. Ackles,[586] and Robert Barber, a former GPEB investigator[587] all gave evidence that this was not part of the role of GPEB investigators in the Lower Mainland at the time.

It appears, however, that this understanding may not have extended beyond the Lower Mainland. Tom Robertson, a former GPEB investigator based in Kelowna from 2008 until 2017, testified that he commonly spoke with casino patrons including, at least in one instance, about the source of cash used in a suspicious buy-in, and was never directed not to do so.[588] In that case, Mr. Robertson advised service provider staff that he did not believe the patron's explanation as to the source of cash used in the transaction and the service provider decided not to permit the patron to gamble.[589]

I will reserve for later in this Report discussion of whether GPEB's investigative staff should have more regularly engaged in such interviews with casino patrons. I note, though, that Mr. Robertson's evidence offers some insight into the possible impact and value of this kind of intervention.

582 Evidence of R. Barber, Transcript, November 3, 2020, pp 116–17; Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 102–3.

583 Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 46–48, 102–3, 159–62.

584 Evidence of J. Schalk, Transcript, January 22, 2021, pp 199–201.

585 Evidence of D. Dickson, Transcript, January 22, 2021, pp 45–47, 70, 99–104.

586 Evidence of K. Ackles, Transcript, November 2, 2020, pp 31–34.

587 Evidence of R. Barber, Transcript, November 3, 2020, pp 116–17.

588 Evidence of T. Robertson, Transcript, November 6, 2020, pp 71–72.

589 Ibid, pp 69–73.

October 25, 2013, Report of Findings and November 20, 2013, Memorandum

Some indication of the foundation for the concerns of members of the investigation division about interviewing casino patrons is found in a report of findings dated October 25, 2013, prepared by Mr. Schalk, and in a memorandum dated November 20, 2013, prepared by Mr. Dickson.

The report of findings provided updated data and projections regarding suspicious currency transaction reports received by GPEB.[590] The data set out in the report indicated that the number of such reports received by GPEB had increased every year since 2008–09 and that based on the reports received to that point in 2013, the investigation division was projecting that the number of reports received would increase again that year to 1,120 from 1,062 the previous year. The division also projected that the value of the transactions represented in those reports would increase from $87,435,297 in the previous year to $94,928,530. The report went on to indicate that 75 percent of the total of this currency was being accepted at the River Rock Casino and that a group of 20–25 different patrons were responsible for 25–35 percent of all suspicious transaction reports and 60–70 percent of the total amount of suspicious currency being accepted in Lower Mainland casinos.

Mr. Schalk goes on in the report to reiterate a number of the concerns expressed in previous reports of findings and elsewhere by the investigation division over the preceding several years. Mr. Schalk suggested that there was "no question" that the cash used in most large cash transactions was obtained from cash facilitators operating out of locations near casinos. He further indicated that "regular and ongoing intelligence information from police sources" had confirmed that these cash facilitators were obtaining cash from organized crime groups. The report asserted that information received over several recent months had confirmed that a number of these cash facilitators and their associates were themselves affiliated to different organized crime groups, some with "significant and serious criminal backgrounds and associations, including firearms possession." Mr. Schalk suggests that the presence of these individuals "could present a potential safety hazard to anyone who personally interacts with them."

Mr. Vander Graaf received and commented on this report, indicating agreement with Mr. Schalk's conclusions and echoing his concerns about the growing suspicious activity observed in casinos. He emphasized his view that there was a need to scrutinize the source of cash used in large cash transactions, in addition to performing due diligence on the patron. Mr. Vander Graaf concluded by suggesting that it was "critical" to "preserving the integrity and the perception of integrity of gaming" that GPEB develop a "defined regulation and/or term and condition of registration, specific to Anti–Money Laundering which outlines appropriate regulatory 'Due Diligence.'"

A memorandum dated November 20, 2013, prepared by Mr. Dickson, offered additional detail regarding the presence of criminal organizations at or near Lower

590 Exhibit 181, Vander Graaf #1, exhibit O.

Mainland casinos.[591] The memorandum indicated that ongoing and recent intelligence received from different police agencies had "confirmed that the influence and existence of several Organized Crime groups … in Lower Mainland" casinos was growing. While Mr. Dickson suggested that this was the case at all casinos in the region, it indicated that it was particularly prominent at the River Rock. The memorandum went on to explain that GPEB investigators had confirmed that a number of cash facilitators and their associates were affiliated to organized crime groups. It concluded:

> 1. It is believed that the presence of Organized Crime groups in and around [Lower Mainland] casinos and intervention by our GPEB investigators involved in investigations related to these types of people could present a safety hazard to them and others. As an organization, GPEB Investigations is not equipped to investigate or interact with known members and associates of [Organized Crime] groups. The criminal backgrounds and levels of violence employed by these individuals, in my opinion, completely rules out any interdiction strategies directed at curtailing the flow of suspicious currency / loan sharking / money laundering activities in [Lower Mainland] casinos.
>
> 2. The amount of suspicious cash being brought into the [Lower Mainland] casinos continues to increase. In conjunction with this, the increasing presence of [Organized Crime] groups in and around the venues also continues to increase the risk posed to the overall integrity of gaming in the Province.

In his evidence, Mr. Dickson expanded upon what he meant by "interdiction strategies" as the term is used in the first point above.[592] Mr. Dickson explained that, in his view, the interdiction strategies ruled out by the information set out in the memo included both seizing funds and interviewing casino patrons, though he acknowledged that the investigation division had decided against interviewing patrons prior to the date of this memorandum.[593] While I can understand the risk that might be posed by attempting to directly intervene with a cash facilitator who might be associated with an organized crime group, as I discuss in Chapter 14, it is less clear to me how these same risks would arise if a GPEB investigator were to ask questions of a casino patron within the confines of heavily monitored casino.

State of Response to Large and Suspicious Cash Transactions at End of 2013

As 2013 drew to a close, there were few signs of meaningful action to address the large and suspicious cash transactions prevalent in the province's casinos. Both the rate and value of such transactions were rising rapidly and BCLC was in the process of making

591 Ibid, exhibit E.

592 Evidence of D. Dickson, Transcript, January 22, 2021, pp 99–104.

593 Ibid.

permanent a significant increase in high-limit bet limits. GPEB's investigation division had solidified its view that it could not safely ask patrons about the source of their funds, and BCLC's investigators had been instructed that they were not to do so. As will be discussed below and in Chapter 11, the industry remained more than a year away from meaningful implementation of phase three of the anti–money laundering strategy devised in 2011 – the first phase contemplated to involve significant action beyond the development and promotion of voluntary cash alternatives. In this context, it is unsurprising that, as discussed below, the rate at which suspicious cash was entering the province's casinos showed no sign of slowing as the industry entered 2014.

Suspicious Transactions, Betting Limits, and Enhancements to VIP Offerings in 2014 and Early 2015

In 2014, British Columbia's gaming industry continued to fuel the growth of cash in the province's casinos through increased betting limits and the continued development of VIP facilities. As it did so, the rate of suspicious cash transactions continued to accelerate through 2014 and into early 2015. Below, I discuss the action taken by GPEB and BCLC in response to the continued growth of these transactions and the extent to which those actions made any meaningful impact on the growing problem of suspicious cash entering Lower Mainland casinos. While GPEB was partly preoccupied through much of 2014 with an organizational review and restructuring, it continued to develop the regulatory response to this issue to be implemented as phase three of the anti–money laundering strategy developed in 2011. It did not, however, take any meaningful action to actually curb these transactions, despite the initial timeline for the strategy identifying December 2013 as the timing of implementation of phase three. BCLC also responded to this increase in suspicious activity, most significantly by encouraging law enforcement engagement and placing restrictions on two prolific VIP players that prohibited those patrons from buying-in with unsourced cash. At the same time, however, BCLC continued to downplay the significance of this suspicious activity to both government and its own staff.

Large and Suspicious Cash Transactions in 2014 and Early 2015

The first year for which BCLC suspicious transaction reporting data is available is 2014. These data indicate that, in 2014, BCLC reported to FINTRAC a total of 1,631 suspicious transactions. Of these, 493 involved transactions with values between $50,001 and $100,000 and 595 involved transactions with values over $100,000.[594] This means that, on average, a suspicious transaction with a value of $50,000 or more took place nearly three times per day during 2014. The total value of all suspicious transactions reported during this year was $195,282,332, an average of just under $120,000 per transaction, and more than $500,000 per day.[595]

594 Exhibit 482, Cuglietta #1, exhibit A.

595 Exhibit 784, Cuglietta #2, exhibit A.

While equivalent data for years prior to 2014 is not available – preventing me from comparing 2014 figures to identical metrics from previous years – there is compelling evidence that the volume of suspicious transactions reported in 2014 represented a significant increase from past years. This is apparent in part from data related to suspicious currency transaction reports submitted to GPEB pursuant to section 86 of the *Gaming Control Act*. A GPEB report of findings produced in October 2014 offers the following data regarding the number of transactions reported, and the cumulative value of those transactions, for the years 2012–13 to 2014–15:[596]

Table 10.5: Suspicious Cash Transactions Submitted to GPEB, 2012–2015

Year	Section 86 SCT Reports	Total Value of SCTs
2012–13	1,059	$82,369,077
2013–14	1,382	$118,693,215
2014–15 (Note: Partial data for first six months of year)	876	$92,891,065

Source: Exhibit 181, Affidavit #1 of Larry Vander Graaf, exhibit Q.

The report extrapolates from the partial data for 2014–15 to project that a total of 1,750 suspicious currency transactions, with a cumulative value of over $185 million, would be reported for the year in its entirety. The suspicious currency reports received within the first six months of 2014–15 represented more than 63 percent of the total reports received in all of 2013–14. The value of the transactions represented by the reports received in those six months was more than 78 percent of the total value of all such transactions in the previous year.

As I discuss in Chapter 11, these elevated levels of suspicious transactions would continue into 2015. An analysis conducted by GPEB of suspicious transactions of $50,000 or more in July 2015 found that Lower Mainland casinos had accepted more than $20 million in cash, including over $14 million in $20 bills, in such transactions in that month alone.[597]

Growth and Evolution of Cash Facilitation

As the number and value of suspicious transactions taking place in the province's casinos grew, BCLC identified an increase in cash facilitation activity in 2014. Mr. Desmarais testified that he was briefed by his staff in 2014 that they had become aware of an

596 Exhibit 181, Vander Graaf #1, exhibit Q.

597 Evidence of R. Barber, Transcript, November 3, 2020, pp 21–22; Exhibit 145, Barber #1, exhibit F; Exhibit 144, Ackles #3, paras 23–24 and exhibit F; Evidence of K. Ackles, Transcript, November 2, 2021, p 41.

increasing number of cash facilitators operating in the vicinity of the River Rock.[598] His evidence was that this was of sufficient concern to BCLC that they believed that it warranted police investigation, and BCLC began forwarding additional information to the RCMP.[599] These efforts will be addressed in more detail later in this chapter.

Alongside this growth in cash facilitation, those engaged in the gaming industry at the time also observed an evolution in the form of this activity. Specifically, both Great Canadian and BCLC observed that patrons were frequently buying-in using large amounts of cash and leaving the casino with the chips they had purchased without playing.[600] On several occasions, these patrons were observed attending a guest room in the hotel connected to the River Rock Casino,[601] and BCLC eventually came to believe that the room was being used by cash facilitators to supply VIP patrons with cash and chips.[602]

Increased Betting Limits and Enhancements to VIP Offerings

Even as the rate of suspicious transactions increased, the industry continued to implement changes that seem designed to increase high-limit VIP play. These included increases to betting limits in high-limit areas and enhancements to VIP space.

Increased Betting Limits

As discussed in detail earlier in this chapter, BCLC made two changes to betting limits applicable to high-limit areas in January 2014. The first of these was to make permanent a trial bet limit change that had commenced in 2013, which increased limits in high-limit areas from $5,000 to $10,000 per hand. The second was to permit patrons playing at private tables to bet up to $100,000 per hand. In effect, this amounted to an increase of $10,000 per hand at private tables as, in the absence of this change, patrons playing all nine positions on a baccarat table could have bet up to $90,000 following the increase from $5,000 to $10,000 per position.[603]

Given that the industry was still heavily reliant on cash, it seems clear that this change would have resulted in increases in the volume of cash entering British Columbia casinos.

598 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 86–87; Exhibit 522, Desmarais #1, para 69.

599 Exhibit 522, Desmarais #1, para 69; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 87–88.

600 Exhibit 145, Barber #1, exhibits A, B; Evidence of M. Hiller, Transcript, November 9, 2020, pp 91–96; Exhibit 522, Desmarais #1, para 97 and exhibit 75; Exhibit 124, Email from Brad Desmarais, re Heads Up on Another Large Cash Buy-in River Rock 2014–52289 (November 23, 2017); Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 27–29; Exhibit 490, Kroeker #1, para 70 and exhibits 15–17.

601 Exhibit 168, Email exchange between Mike Hiller and Jim Wall, re Buy–ins with No Play (August 18, 2014); Evidence of M. Hiller, Transcript, November 9, 2020, pp 91–96; Exhibit 124, Email from Brad Desmarais, re H Heads Up on Another Large Cash Buy-in River Rock 2014–52289 (November 23, 2017); Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 27–29; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 94–95; Exhibit 148, Tottenham #1, paras 194–95 and exhibit 106.

602 Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 30–31; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 95–96.

603 Exhibit 505, Lightbody #1, para. 47, exhibits 15, 22; Exhibit 543, MOF Briefing Document, Limits in Casinos (December 13, 2013), p 3; Evidence of J. Lightbody, Transcript, January 28, 2021, p 10.

The first of the two changes referred to above effectively doubled the amount any high-limit patron could bet on a single hand. While this increase was launched as a pilot in 2013 and was in effect in some casinos prior to 2014, its continuation into 2014 meant that patrons could continue to bet at these levels in this year. The increase in private table aggregate bet limits from $90,000 to $100,000 is unlikely to have had as significant an impact, given that it was a much more modest percentage increase with narrower application. Nevertheless, it permitted patrons to bet at higher amounts and seems likely to have increased the volume of cash used in the province's casinos to some degree.

Enhancements to VIP Offerings

Alongside these increases in betting limits, enhancements were made to VIP offerings in casinos in the Lower Mainland in 2014 and 2015. These included the opening of a high-limit room at the Edgewater Casino and proposals for enhancements to high-limit space at the River Rock Casino.

On January 29, 2014, Mr. Lightbody received a letter from Jerry Williamson, BCLC director of gaming facilities, advising that the Edgewater Casino high-limit room was scheduled to open to the public on January 31, 2014.[604] The letter advised that this room consisted of 12 live gaming tables, including seven private and semi-private rooms and provided related details about surveillance, security, and staff training, among other information. Mr. Lightbody gave evidence that, as BCLC's vice-president of casino and community gaming, he was ultimately responsible for approving the opening of the Edgewater high-limit room on behalf of BCLC and that he approved the direction to move forward with the opening. Mr. Lightbody also gave evidence that, at the time, no new gaming area could open without the approval of the BCLC security team.[605]

Later in the year, a proposal was developed within Great Canadian to expand and upgrade the VIP facilities at the River Rock Casino as part of its business and budget planning process for 2015.[606] This proposal was set out in a memorandum dated October 14, 2014.[607] The evidence before me indicates that the proposed River Rock upgrades were motivated by increases to revenue observed to that point in 2014.[608]

The enhancements proposed at this time were described as follows in the proposal:[609]

> 1. Salon Privé and Phoenix Room's new design layout will be more appealing to the Chinese. Brighter color scheme tones, brighter lighting and tiered layering gaming zones will be similar to Macau's VIP gaming areas thus more welcoming to our elite VIPs;

604 Exhibit 505, Lightbody #1, paras 37–39 and exhibit 9.

605 Ibid.

606 Evidence of W. Soo, Transcript, February 9, 2021, p 54.

607 Exhibit 559, Soo #1, paras 75–79 and exhibit J. An earlier draft of this proposal dated October 1, 2014 is also in evidence: Exhibit 559, Soo #1, exhibit J.

608 Evidence of W. Soo, Transcript, February 9, 2021, p 55.

609 Exhibit 559, Soo #1, exhibit J.

2. An "Inner Sanctum" interior space will be constructed in the Salon Privé's new expansion area (former the surveillance and security space). This configuration marks the first time gaming and dining will be combined to add convenience and utmost discretion and privacy for our uber elite Baccarat players;

3. Introduction of smaller Baccarat tables which accommodate up to 5 players (rather than full size tables which accommodate 9 players). These tables will induce more reserve games which typically [seat] 1–3 players, resulting in higher productivity (faster rounds of play – increased hands per hour) and floor efficiency (optimize space utilization);

4. Gaming capacity increases by 17 tables – an additional 8 in Salon Privé and 9 in the Phoenix Room;

5. Secure BCLC pre-approval to offer higher bet limits ($150,000 table aggregate) which will be deployed at [Great Canadian's] discretion; and

6. Introduction of a $25,000 chip/plaque to create/induce aspirational play and to satisfy the demand for a higher maximum bet requested by an exclusive segment of our uber elite Baccarat players.

It is clear from this proposal that, rather than being deterred by the continued growth in suspicious cash transactions, some within Great Canadian sought to further capitalize on the highest-level players, including by seeking increased betting limits and attempting to induce faster play and higher wagers.

While at least some of these changes were implemented,[610] table aggregate bet limits were never increased to $150,000.

The proposal also identified a set of five "assumptions" on which the proposal was based, including the following two paragraphs, among others:[611]

1. China Central Government's anti-corruption and flight capital campaign will escalate in 2015 thus discouraging and diverting a fair portion of VIP Baccarat play from Macau to River Rock Casino. It is widely believed that campaign scrutiny will ramp up when findings are completed and reported back to Beijing in 2015;

...

2. The United States' campaign against illicit money laundering (American Justice Department, U.S. Treasury Department and FinCEN) will continue to intensify its investigation into the governance

610 Evidence of W. Soo, Transcript, February 9, 2021, pp 54–57.

611 Exhibit 559, Soo #1, exhibit J.

> and ethical practices of Las Vegas gaming companies operating in Macau (Wynn, Sands, and MGM). [People's Republic of China] VIPs will encounter more restrictions to access funds for gaming in Macau and Las Vegas, reducing their desire to frequent these destinations and diverting their play to River Rock Casino ...

On their face, these "assumptions" would seem to indicate that Great Canadian was seeking to attract players connected to corruption or who would be attracted to the River Rock because their funds would be subjected to less scrutiny in British Columbia casinos than they would in Macau or Las Vegas. This interpretation was contested in the Commission's hearings.[612] There is evidence before me that the inclusion of these factors was based on a practice of considering global geopolitical trends in trying to understand business trends and that the commentary in these paragraphs represented an attempt to explain why the River Rock's business had increased in 2014 and to determine whether or not this trend would continue into 2015.[613]

Terrence Doyle, who has worked in various roles with Great Canadian over the span of two decades and was appointed chief operating officer in 2015,[614] was asked whether he would condone a business strategy that was aimed at attracting patrons "who didn't want to comply with China's anticorruption laws or didn't want to comply with United States money laundering rules."[615] Mr. Doyle, who was the audience for this proposal and not its author,[616] responded that he would not:[617]

> No. I mean, it's a concept that is totally counter to the values of our company and quite honestly would be bad business for so many reasons. You know, it's hard for me to even begin to state that, but there is no opportunity for Great Canadian. And certainly even if management wanted to pursue something like that, there would be no opportunity from our board, who from a governance point of view would never allow those type of actions to happen, nor would I personally.

I accept in principle Mr. Doyle's evidence that he would not personally condone a business strategy focused on attracting patrons seeking to avoid anti-corruption or anti–money laundering laws in other jurisdictions. In light of the contents of the October 14, 2014, memorandum and other evidence related to this proposal, however, it seems clear that the strategy set out in this document does just that. I understand that the interest reflected in this proposal in the effect of anti-corruption laws in China and anti–money laundering laws in the United States arose from the assistance they provided in explaining the increase in business observed in 2014 and determining

612 Evidence of W. Soo, Transcript, February 9, 2021, pp 58–68.

613 Ibid, pp 58 and 66–68.

614 Exhibit 560, Doyle #1, paras 6 and 8.

615 Evidence of T. Doyle, Transcript, February 10, 2021, p 107.

616 Ibid, pp 119-121.

617 Ibid.

whether this increased business was likely to continue into 2015. On this basis, the proposal included enhancements to the River Rock's VIP space and seeking an increase in bet limits to accommodate and maximize this increased business. If the increase in business in 2014 was driven by patrons avoiding anti-corruption and anti–money laundering regulation in other jurisdictions and the River Rock sought to make changes to its VIP offerings to accommodate these patrons and enable them to gamble at higher levels than they had in 2014, I cannot see how this proposal is not clearly an attempt to attract additional business displaced by more rigorous regulation in other parts of the world.

Actions of BCLC During 2014 and Early 2015

As indicated above, it is clear from Mr. Desmarais's evidence that BCLC recognized the increases in cash transactions and cash facilitation that occurred in 2014 and was concerned by these developments.[618] As suspicious transactions accelerated in 2014 and 2015, BCLC took steps to respond to these trends and enhance its anti–money laundering program. Of particular significance, these steps included efforts to encourage law enforcement to commence an investigation into the sources of the growing volumes of cash present in casinos. BCLC also imposed conditions on two VIP patrons that prohibited them from buying-in with cash in the absence of proof that it was derived from a legitimate source. Even as it took steps to respond to this issue, however, BCLC continued in its internal and external communications to cast doubt on whether money laundering was an issue in the gaming industry and whether the growing number of suspicious cash transactions in the province's casinos were connected to money laundering.

BCLC Enhancements to Anti–Money Laundering Program and Response to Suspicious Transactions

In 2014 and the early part of 2015, BCLC took a number of steps to enhance its anti–money laundering regime and to respond to the growth in suspicious transactions observed in the province's casinos. These efforts included creating an information-sharing agreement with the RCMP, barring individuals who posed a public safety risk from the province's casinos, attempting to procure a new software system to enhance anti–money laundering efforts, and proposing new cash alternatives. In addition, BCLC began to take limited steps focused on large cash transactions. These included efforts to encourage law enforcement to investigate those transactions and the placement of conditions on two VIP patrons involved in repeated suspicious transactions.

618 Exhibit 522, Desmarais #1, para 69; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 86–88.

2014 Information-Sharing Agreement

BCLC entered into an information-sharing agreement with the RCMP in January 2014.[619] Mr. Desmarais described the rationale for entering into the agreement and what he perceived to be its value for BCLC as follows:[620]

> I felt that given the fact that we were a Crown corporation and uniquely positioned to be able to … enter into information sharing agreements with the RCMP, notwithstanding they are federal, as well as other provincial or municipal police agencies, that would be an appropriate and, in my view, almost key element to moving forward. I think it also provided us [with] the ability to provide information to the police and where they could provide information to us obviously within certain barriers, within certain guidelines.
>
> As we started to build out our AML risk matrix, we felt that we needed the ability to determine whether individuals that were spending a lot of money in our casinos were in fact criminals and that we ought to be able to ask the police that. In addition to that – and this is a really big one … one of the best ways to keep criminal activity out of casinos is not to allow people that have a propensity to commit criminal offences.
>
> So based on that, we were hopeful that the information sharing agreement – and this ended up bearing fruit some months later – would allow police to advise us of people who just shouldn't be in the casinos.

A number of other current and former BCLC employees gave evidence regarding the value of this agreement.[621] Mr. Lightbody testified that the agreement was important to BCLC because it allowed BCLC to identify known criminals and their associates and proactively bar them from the province's casinos.[622] Mr. Beeksma agreed that the agreement allowed BCLC greater insight into player backgrounds and source of funds and eventually enabled BCLC to implement its cash conditions program in 2015.[623] In his affidavit, Mr. Kroeker explained the value of the agreement for both BCLC and the RCMP:[624]

> In 2014, Mr. Desmarais at BCLC negotiated an information sharing agreement ("ISA") with the RCMP … The ISA was key to BCLC's AML efforts as it allowed BCLC to identify patrons with connections to organized crime and proactively ban them. This enhanced BCLC's ability to reliably identify

619 Exhibit 490, Kroeker #1, para 114 and exhibit 41; Exhibit 522, Desmarais #1, para 26 and exhibit 6.

620 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 64–65.

621 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 148–49; Evidence of R. Alderson, Transcript, September 9, 2021, pp 127–29; Exhibit 505, Lightbody #1, para 79; Exhibit 490, Kroeker #1, para 114; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 113–14; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 59–60.

622 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 59–60.

623 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 148–50.

624 Exhibit 490, Kroeker #1, para 114.

> casino patrons who may be connected to criminal activity. The ISA was also of significant value to the RCMP as it allowed BCLC to provide information to them without a production order.

While I do not doubt that this information-sharing agreement was a positive step for BCLC and that it enhanced its ability to exclude those with connections to organized crime from casinos, there is reason to question whether it was likely to have any meaningful impact on the acceptance of large volumes of suspicious cash, which continued to grow at that time. As discussed above, by this time, the cash facilitators providing cash to casino patrons were based outside of casino property and attended casinos only to deliver cash, while patrons who received and used this cash were generally not affiliated with organized crime. As such, the RCMP was unlikely to provide BCLC with information about these patrons, and while the RCMP may have provided information to BCLC that would have justified barring cash facilitators, this was unlikely to have any impact on their ability to continue providing patrons with cash.

Public Safety Barrings

Once BCLC's information-sharing agreement with the RCMP was in place, BCLC sought to put it to use by obtaining information that would assist in identifying patrons who posed a risk to public safety or should otherwise be barred from the province's casinos. In April 2014, BCLC contacted CFSEU as well as RCMP detachments in jurisdictions that were home to gaming facilities seeking information pursuant to the agreement.[625] Specifically, BCLC sought information about individuals who were known to frequent gaming facilities and who were "undesirable" in the sense that they posed a threat to public safety, belonged to an organized crime group or gang, or were engaged in criminal activity that tended to generate the proceeds of crime.[626]

In May 2014, BCLC received from CFSEU a list of CFSEU's top 1,000 targets in the province.[627] BCLC's anti–money laundering unit cross-referenced this list with the iTrak database, identifying 109 patrons who were on the target list.[628] To these 109 patrons, BCLC added an additional 10 that it understood had significant histories of involvement in organized crime (but were not on the CFSEU list or were not identified during cross-referencing).[629] Of these 119 patrons, 33 were identified as already subject to a long-term barring by BCLC or voluntarily self-exclusion from British Columbia casinos.[630] In an email to Mr. Tottenham dated June 6, 2014, Mr. Karlovcec proposed

625 Exhibit 148, Tottenham #1, para 108 and exhibit 20; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 46–47.

626 Exhibit 148, Tottenham #1, exhibit 20; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 92–93.

627 Exhibit 148, Tottenham #1, para 109.

628 Ibid, para 109; Exhibit 116, Email from Daryl Tottenham to AML, re CFSEU / High Risk List Review – For Discussion [CFSEU / High Risk Tottenham Email]; Evidence of J. Karlovcec, Transcript, October 30, 2020, p 9.

629 Evidence of J. Karlovcec, Transcript, October 30, 2020, p 10; Exhibit 116, CFSEU / High Risk Tottenham Email.

630 Exhibit 116, CFSEU / High Risk Tottenham Email.

that any of the 119 patrons identified as having an established business relationship with BCLC should be barred for five years, while those who had never entered a gaming facility would not. The email indicated that BCLC required additional information to determine how to move forward with some of those on the list and would reach out to CFSEU for that additional information.[631]

SAS Software System

As BCLC was working to proactively bar known criminals from the province's casinos, it was also taking steps to enhance the analytical capacity of its anti–money laundering unit. After assuming the role of manager of the new unit in 2013, Mr. Karlovcec identified a need for improvements to BCLC's anti–money laundering software, in part to assist in meeting new requirements created by amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17, that were scheduled to take effect in February 2014.[632] On May 9, 2014, Mr. Karlovcec completed a business case recommending that BCLC acquire new anti–money laundering software with analytical capabilities.[633] Mr. Karlovcec's recommendation was accepted.[634] While there were challenges in the implementation of the software's reporting functions and that aspect was never implemented,[635] its analytical component was implemented and, according to Mr. Karlovcec, functioned well.[636] Based on Mr. Karlovcec's evidence, the benefits of this analytical component were described in part in the business case as follows:[637]

- Having access to the analytics toolset at the enterprise level will provide the AML team with additional investigative tools to analyze patterns and identify anomalies.
- The casino analytics team captures transactional data that can be leveraged for AML analysis, and help to form a more complete picture of player activity.

Based on the evidence before me, I accept that the enhanced analytics capacity likely improved BCLC's ability to understand patterns in player activity. While I have no concerns about BCLC acquiring and making use of this software, it does not seem to me as though any level of sophisticated analytical capacity was necessary to understand the nature and scale of suspicious cash transactions prevalent in casinos at this time and I see this development as largely distinct from that issue.

631 Exhibit 117, Email from John Karlovcec to Daryl Tottenham, re CFSEU / High Risk List Review – For Discussion (June 6, 2014).

632 Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 140–41; Exhibit 140, AML Compliance & Analytics Enhancement Project Business Case Fiscal 2014/15.

633 Evidence of J. Karlovcec, Transcript, October 30, 2020, p 141; Exhibit 140, AML Compliance & Analytics Enhancement Project Business Case Fiscal 2014/15.

634 Evidence of J. Karlovcec, Transcript, October 30, 2020, p 144.

635 Ibid, pp 144–145; Evidence of R. Alderson, Transcript, September 10, 2021, pp 24–26.

636 Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 144–45.

637 Ibid, pp 143–44; Exhibit 140, AML Compliance & Analytics Enhancement Project Business Case Fiscal 2014/15, p 3.

2015 Cash Alternative Proposals

As it pursued the enhancements to its anti–money laundering regime identified above, BCLC continued to seek to expand upon the cash alternatives offered to casino patrons. In 2015, BCLC proposed the following three changes:[638]

1. To allow cash deposits into PGF accounts at the initial account opening and for subsequent deposits for [VVIPs];
2. To allow [VVIPs] to receive the full amount of cash outs via convenience cheque, without a weekly cheque issuance limit; and
3. To allow PGF overdraft privileges, at no cost, to [VVIPs] who meet specific criteria.

The proposed measures, and their anticipated risks and benefits, were detailed in a document forwarded to GPEB by BCLC in April 2015.[639] The benefits of the proposals identified in this document include elements with some connection to the mitigation of money laundering risk, including possible reductions in suspicious transaction reporting and the creation of an "enhanced audit trail," as well as other benefits, including improved safety and convenience for patrons and enhanced revenue. Money laundering is actually identified as an associated *risk* of the first proposal, given the inherent risk associated with cash deposits. BCLC proposed to mitigate this risk through verification of the patron's identify and declaration of the source of funds deposited in the account and by monitoring the usage of the account to ensure the funds deposited were used for gaming.

A further cash alternative – international electronic funds transfers – was also proposed by BCLC in 2015[640] but not addressed in the April 2015 document.

In a letter dated September 1, 2015, Mr. Mazure indicated that the first three proposals had been approved in principle by GPEB, but that additional detail regarding the associated risks was required to allow GPEB to "determine if the recommendations align with GPEB's expectations in terms of enhanced Customer Due Diligence (CDD) and ["Know Your Customer" practices]."[641] According to the evidence of Mr. Kroeker, who appears to have taken on responsibility for these proposals after joining BCLC in September 2015, BCLC provided further information on these proposals in November 2015, and discussions between GPEB and BCLC continued into 2016 before GPEB advised BCLC that its approval was not, in fact, required for the proposals to permit international electronic funds transfers or to eliminate limits on convenience cheques.[642] BCLC immediately took steps toward implementation of these measures, though I understand that limits on the permissible value of convenience cheques

638 Exhibit 505, Lightbody #1, exhibit 50; Exhibit 490, Kroeker #1, exhibit 63.

639 Exhibit 490, Kroeker #1, exhibit 63.

640 Exhibit 490, Kroeker #1, para 139 and exhibit 61.

641 Exhibit 505, Lightbody #1, para 50.

642 Exhibit 490, Kroeker #1, paras 139–42 and exhibit 63.

ultimately remained in place.[643] Based on Mr. Kroeker's evidence, it does not appear that BCLC ever received a firm response from GPEB regarding overdraft privileges for certain VVIP patrons, and this proposal was abandoned.[644] It also does not appear that BCLC moved forward with the proposal to permit funding of PGF accounts with cash, a proposal that seems ill-advised in the context of an attempt to move the industry away from a reliance on cash.

BCLC Efforts to Encourage Police Investigation

The rise in the volume of cash accepted in the province's casinos and the apparent increase in cash facilitation activity observed in 2014 was of sufficient concern to BCLC that it believed that investigation by law enforcement was required. While BCLC had been providing information about suspicious transactions in the province's casinos to law enforcement for many years, in 2014 it enhanced its efforts in this regard by proactively encouraging law enforcement to commence an investigation into the sources of funds used in increasing suspicious transactions. As I describe in detail in Chapter 39, BCLC approached a series of law enforcement agencies and units over the course of 10 months in 2014 and 2015.

These efforts commenced with an overture to CFSEU in April 2014, which showed initial promise but ultimately did not lead to an investigation, as CFSEU eventually advised BCLC that its focus was "guns and gangs" not proceeds of crime.[645] BCLC also approached other law enforcement units and officers, including the Real Time Intelligence Centre, the Richmond RCMP detachment, and BCLC's former contacts with the RCMP IPOC unit, which by that time had been disbanded.[646] These efforts met a similar fate as those made with respect to CFSEU.[647] I note that, while BCLC appears to have made the most concerted efforts to encourage law enforcement engagement at this time, they were not alone in these attempts. Some of the units contacted by BCLC were also approached by others in the gaming industry in or around this time. Mr. Barber, for example, took the initiative to contact a number of law enforcement agencies about his own concerns about suspicious transactions during his tenure as a GPEB investigator, including CFSEU, the Real Time Intelligence Centre, and the Criminal Intelligence Service British Columbia / Yukon Territory.[648] Similarly, during his tenure with Great Canadian, Mr. Kroeker reached out to the Richmond RCMP detachment in response to a media article regarding possible money laundering at the River Rock, which suggested that placing an RCMP officer in the River Rock

643 Ibid, paras 142, 146; Exhibit 148, Tottenham #1, para 14.

644 Exhibit 490, Kroeker #1, paras 143–44.

645 Exhibit 148, Tottenham #1, paras 102–7, 115–18; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 65–68; Evidence of John Karlovcec, Transcript, October 30, 2020, pp 19–25; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 127–28.

646 Exhibit 148, Tottenham #1, paras 119–22.

647 Ibid.

648 Exhibit 145, Barber #1, para 60; Evidence of R. Barber, Transcript, November 3, 2020, p 137.

surveillance room could resolve the issue.[649] A representative of the Richmond detachment responded to Mr. Kroeker as follows:[650]

> As you recall I used to work at IPOC for over a decade and conducted numerous money laundering investigations and have a real in-depth understanding of money laundering... [W]e as the police force of jurisdiction are very satisfied with the regimes, policies, and procedures followed by the River Rock, BCLC, FINTRAC, BC Gaming Branch and the police to prevent the activity. We do not have a concern about money laundering at the River Rock. You can tell from the news article, we were not approached or consulted. The solution of a police officer on the floor or surveillance room will not likely stop any sophisticated money laundering operation, anywhere, and I don't believe the casinos in BC can even be a participant in a sophisticated organized money laundering process with the existing reporting regimes ... designed to prevent the activity. I know that "proceeds of crime" could potentially be gambled, however, without [an] extensive investigation by police, the casinos would never be able to determine the source of all funds spent in their facilities.

As discussed in Chapters 3 and 39, approximately 10 months after it initially approached CFSEU, BCLC achieved its goal of persuading a law enforcement unit to investigate the sources of cash used in suspicious transactions at the province's casinos. In February 2015, the RCMP Federal and Serious Organized Crime unit agreed to assign a few investigators to examine the issue, due in part to Mr. Desmarais leveraging a personal relationship with one of the unit's senior officers.[651] After several days of surveillance conducted over the span of approximately three months, the Federal and Serious Organized Crime unit confirmed a "direct link" between the suspicious cash provided to patrons at the River Rock and an illegal cash facility in Richmond,[652] leading to the commencement of the E-Pirate investigation described in detail in Chapter 3.

Initial Conditioning of VIP Patrons

In November 2014, as it struggled to encourage CFSEU to take interest in the large and suspicious cash transactions occurring with greater frequency in the gaming industry, BCLC began to take action itself to limit the ability of a VIP patron, identified earlier in this chapter as "Patron A," to play with cash. Seemingly for the first time, BCLC imposed conditions on a VIP player with a recent history of extraordinarily large cash buy-ins that prohibited that patron from buying-in with cash. While it appears that this initial, limited effort was an *ad hoc* attempt to respond to a single patron engaged

649 Evidence of R. Kroeker, Transcript, January 25, 2021, pp 98–100; Exhibit 490, Kroeker #1, para 61 and exhibit 13.

650 Exhibit 490, Kroeker #1, exhibit 13.

651 Evidence of B. Desmarais, Transcript, February 1, 2021, p 118; Exhibit 522, Desmarais #1, paras 76–78; Evidence of C. Chrustie, Transcript, March 29, 2021, pp 65–66, 104–5.

652 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 121–122; Exhibit 522, Desmarais #1, paras 76–78 and exhibit 55; Evidence of R. Alderson, Transcript, September 9, 2020, pp 41–43.

in concerning activity, it would eventually evolve into a more systematic program aimed at requiring certain VIP patrons regularly buying-in with large amounts of cash to provide proof of the source of their funds if they wished to continue playing with cash or other bearer monetary instruments.

According to a report of findings prepared by the GPEB investigation division, on a single night spanning September 24 and 25, 2014, Patron A bought-in for a total of over $1 million, almost entirely in $20 bills, at the River Rock Casino.[653] On two occasions that evening, having exhausted or nearly exhausted his supply of casino chips, Patron A was observed making a phone call and obtaining approximately $500,000 in cash from vehicles he met on casino property.[654]

Approximately three weeks later, on October 18, 2014, again at the River Rock, Patron A was observed receiving a phone call and then meeting a vehicle in the casino parking lot at 3 a.m. Patron A retrieved a shopping bag containing $645,105 in cash packaged in bricks and wrapped in elastic bands.[655] That afternoon, Mr. Karlovcec sent an email to several BCLC and Great Canadian employees, including Mr. Desmarais, Mr. Ennis, and Mr. Kroeker.[656] In his email, Mr. Karlovcec noted that the previous incident on September 24 and 25 had "caused GPEB investigations to go on a rampage" and that the October 18 incident would "no doubt fuel Larry [Vander Graaf] and Joe [Schalk]'s fire."[657] Mr. Karlovcec suggested further discussion of the incident at an upcoming meeting.[658]

In the two weeks that followed, Great Canadian made a number of attempts to speak with Patron A to warn him about the risks of obtaining large quantities of cash from cash facilitators and to encourage him to use his PGF account or other cash alternatives.[659] It appears that Patron A was also spoken with twice by BCLC staff, including one conversation with Mr. Desmarais himself.[660] Despite these efforts, on November 26, 2014, BCLC placed Patron A on conditions that prohibited him from buying-in with cash if he could not provide proof that he obtained that cash from a legitimate source.[661]

A second patron, Patron B, was placed on similar conditions on April 14, 2015, following a series of extremely large cash buy-ins using cash obtained from cash facilitators.[662] As with Patron A, BCLC allowed service provider staff an opportunity to

653 Exhibit 181, Vander Graaf #1, exhibit P.

654 Ibid.

655 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 58–63; Exhibit 78, Beeksma #1, exhibit D; Evidence of J. Karlovcec, Transcript, October 30, 2020, p 40.

656 Exhibit 127, Email from John Karlovcec to Brad Desmarais, re FW Unusual Financial Transaction.

657 Ibid.

658 Ibid.

659 Exhibit 559, Soo #1, paras 86–91 and exhibits L, M, N, O, P, Q, R.

660 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 103–6; Exhibit 522, Desmarais #1, exhibit 12.

661 Exhibit 148, Tottenham #1, para 79 and exhibit 6; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 80–82; Exhibit 505, Lightbody #1, para 84 and exhibit 26; Exhibit 522, Desmarais #1, para 39.

662 Exhibit 148, Tottenham #1, paras 82–83; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 124–45.

speak with Patron B before he was placed on conditions in the hope that they would be able to "rein him in."[663] Mr. Tottenham recalled that when Patron B was placed on conditions, Great Canadian management expressed concern that the River Rock would lose the patron's business,[664] but following a short drop-off in his play, and apparent attempts to circumvent the conditions by using unsourced chips,[665] Patron B began depositing substantial bank drafts ranging from $100,000 to $1 million into his PGF account.[666]

Shortly after Patron B was placed on conditions, the process for doing so was formalized in a written protocol by BCLC.[667] As I discuss in Chapter 11, this formal cash conditions program would slowly continue to evolve and expand in the years followed, eventually resulting in the placement of hundreds of patrons on conditions; however, even as the program evolved, Lower Mainland casinos continued to accept substantial sums of suspicious unsourced cash.

Revenue and Patron Relationship Considerations in Imposing Conditions on VIP Patrons

I recognize that the decision to place these patrons on conditions was a measure designed to reduce suspicious cash being accepted by British Columbia casinos. In my view, however, it is important to recognize that there are indications in the record before me that BCLC's actions in this regard were tempered by concerns for the impact of these measures on revenue and on relationships between service providers and these patrons. This is observed in BCLC's willingness to make concessions to service providers in the manner in which it approached this process and in internal BCLC email correspondence.

It is clear from the record before me that, prior to the imposition of conditions on Patron A, BCLC agreed to adjust its process for speaking with VIP patrons in response to Great Canadian's concerns about its relationships with these patrons. In October 2014, representatives of Great Canadian initiated a meeting with BCLC to discuss their concerns about the manner in which BCLC investigators had approached a VIP patron at the River Rock and the potential impact these actions could have on their relationship with the patron.[668] In response to these concerns, BCLC agreed to adjust its process such that it would be service provider staff that initially interacted directly with patrons.[669]

663 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 126–27.

664 Exhibit 148, Tottenham #1, para 83.

665 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 150–58; Evidence of D. Tottenham, Transcript, November 10, 2020, p 192; Exhibit 1033, Email from Brad Desmarais, re Gao latest (April 27, 2015), p 2.

666 Exhibit 148, Tottenham #1, para 84.

667 Evidence of B. Desmarais, Transcript, February 2, 2021, p 106.

668 Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 38–40; Exhibit 126, Email from John Karlovcec to Patrick Ennis, re Meeting to Discuss Protocol for Approaching VIP Players (October 17, 2014); Evidence of D. Tottenham, Transcript, November 4, 2020, pp 94–98; Evidence of P. Ennis, Transcript, February 3, 2021, pp 104–8.

669 Evidence of D. Tottenham, Transcript, November 4, 2020, p 98.

The impact of this change in process is evident in the events leading up to the conditions imposed on the two patrons discussed above. In each case, service providers were provided multiple opportunities to persuade the patron to cease their concerning activity before they were placed on conditions. In the case of Patron B, more than two months elapsed between BCLC's initial request that Grand Villa staff speak to the patron and the ultimate imposition of conditions.[670] During that time, Patron B was permitted to continue buying-in with unsourced chips and large amounts of cash dropped off to him at casinos.[671]

That revenue was on the minds of those within BCLC responsible for making decisions about how to proceed with patrons engaged in suspicious transactions is also evident from internal BCLC emails at this time. On December 31, 2014, for example, Mr. Karlovcec wrote to Mr. Desmarais about the activity of a patron who had bought-in for $1.8 million over the course of seven days, mostly in small bills.[672] Mr. Karlovcec suggested that BCLC ask River Rock management to speak with the patron and monitor his activities, but made the following comments about possible further steps if these actions did not have their intended effect:

> I recognize that we do not want to jeopardize revenue however if the dialogue does not garner the intended results we may need to have our investigators have a chat with him and/or look at imposing additional restrictions relative to his use of cash to play.

Approximately five months later, Mr. Alderson, based on a direction from Mr. Desmarais, asked BCLC staff to advise him and another BCLC manager prior to "suspending, barring, or putting conditions on any of the VVIP players which may impact revenue."[673] Mr. Alderson explained in his evidence that he was new in his role at the time this email was sent and that he understood there had been "pushback" from service providers in response to action taken with respect to one player. Mr. Desmarais had requested he be "kept in the loop" so that he could have discussions with service providers about such measures in the future.[674] This requirement was eventually lifted as interview protocols were established.[675]

I accept that neither of these emails amount to an explicit direction or acknowledgment that conditions or other sanctions should not be placed on VIP patrons due to revenue considerations. Rather, both emails contemplate the imposition of these types of measures *despite* the possible impact on revenue. Still, these emails indicate that the impact on revenue was on the minds of BCLC staff

670 Exhibit 148, Tottenham #1, para 83; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 124–27.

671 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 121–123, 139–41, 143–49.

672 Exhibit 148, Tottenham #1, exhibit 7; Evidence of D. Tottenham, Transcript, November 4, 2021, pp 112–16; Evidence of J. Karlovcec, Transcript, October 30, 2020, p 47–50.

673 Evidence of R. Alderson, Transcript, September 10, 2021, pp 59–60; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 167–69; Exhibit 148, Tottenham #1, exhibit 118.

674 Evidence of R. Alderson, Transcript, September 10, 2021, pp 57–58.

675 Ibid, p 60.

tasked with imposing these conditions and safeguarding the province's casinos from money laundering, and may have affected the speed with which cash conditions were pursued in respect of some patrons.

BCLC Communications Regarding Large Cash Transactions

There is evidence before me that, in late 2014, even as BCLC was urging multiple law enforcement units to commence an investigation into the sources of cash used in British Columbia casinos and prohibiting some of the province's most prolific gamblers from using cash, BCLC continued to resist the view that this cash was the proceeds of crime and connected to money laundering. This is evident in BCLC's communications with senior government officials and its own staff in late 2014 and early 2015.

2014 Yak *Article*

Earlier in this chapter, I discussed two articles written by Mr. Desmarais in 2013 that appeared in BCLC's internal newsletter, the *Yak*, which challenged the notion that money laundering was occurring in the province's casinos and proposed legitimate explanations for the source of the large amounts of cash increasingly used by patrons. A further two-part article written by Mr. Desmarais appeared in the newsletter on November 3 and 14, 2014, titled "Setting the Record Straight on Money Laundering in BC Casinos."[676] In part one of this article,[677] Mr. Desmarais noted recent media reporting on suspicious financial transactions in gaming facilities and indicated that the purpose of the article was to "set the record straight." In attempting to explain what money laundering is, Mr. Desmarais suggested that the "high levels of security and surveillance in addition to policies and procedures" in effect in casinos were a deterrent to money laundering and asserted that "if a player comes in with a large amount of cash and plays for a while, then decides to cash out their chips – they will receive cash back. This is not money laundering."[678] In responding to the question, "Where does all of this cash come from?" Mr. Desmarais offered several possible sources, without acknowledging the possibility that these funds could be the proceeds of crime:[679]

> It's been reported that tens of millions of dollars come into Canada through YVR every year, mainly from China. It is not illegal to bring money into Canada if it's reported (although it may not be legal in China to take money out of the country). This is one source.
>
> The other source may be the underground economy such as contractors or others who do business in cash. Finally, there are those who prefer to

676 Exhibit 522, Desmarais #1, para 65 and exhibits 39, 40; Exhibit 166, Hiller #1, exhibit T.

677 Exhibit 522, Desmarais #1, exhibit 39.

678 Ibid, p 219 and exhibit 39.

679 Ibid, exhibit 39.

> use cash and, until just a few years ago, there were few options to play with anything other than cash. We have made progress in moving players over to traceable, non-cash alternatives, but this will take time.

Part two of the article indicated that, in British Columbia, casinos accounted for only 1.96 percent of large cash transaction reports made to FINTRAC between 2010 and 2013 and described BCLC's acquisition of new anti–money laundering software and the information-sharing agreement with the RCMP completed in January 2014.

It is difficult to reconcile Mr. Desmarais's comments in part one of this article, reproduced above, with the imposition of the first cash conditions on a casino patron only a few weeks later and, in particular, with the ongoing efforts he and those under his direction were making to encourage law enforcement to investigate the large volumes of cash that patrons were using to buy-in in British Columbia casinos. If Mr. Desmarais believed that the large cash transactions observed in casinos could be explained through importation, cash derived from cash-based businesses, or patron preference, there would be little reason for police investigation.

Mr. Hiller testified that he had similar concerns about Mr. Desmarais' article:[680]

> Again, I was very concerned that – of a viewpoint that was likely correct to some degree that these were possibilities of cash coming into the casino, but I was concerned about the article because it didn't contain the most likely concern … that the money was coming from organized crime.

Mr. Hiller's evidence was that he shared these concerns with his supervisor by way of an email in which he had embedded his own comments in the text of the article. He received no substantive response to this email.[681]

Mr. Desmarais testified that his purpose in writing this article was to assure employees that BCLC was not knowingly engaging criminals inside casinos, and that it was not his intention to suggest that casinos could not receive proceeds of crime. He acknowledged that he understood that there was a real risk at this time that proceeds of crime were being used inside casinos.[682] I cannot accept this explanation in light of the contents of this article. In the article, Mr. Desmarais directly addressed the question of "Where does all of this cash come from?" He offered three possible answers to this question, none of which involved cash sourced from illicit activity. I accept that Mr. Desmarais may well have wanted to offer some assurance to BCLC employees in the wake of troubling media coverage. In doing so, however, I find that he provided those employees with misleading information that minimized the risk of money laundering that Mr. Desmarais knew faced the gaming industry at this time.

680 Evidence of M. Hiller, Transcript, November 9, 2020, p 61.

681 Exhibit 166, Hiller #1, para 87, exhibits U, V; Evidence of M. Hiller, Transcript, November 9, 2020, pp 59–63.

682 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 96–97.

January 2015 Meeting with Cheryl Wenezenki-Yolland

Mr. Desmarais offered similar views in a meeting with associate deputy minister, Cheryl Wenezenki-Yolland, in January 2015, several months after BCLC had begun asking law enforcement to investigate suspicious transactions and following the imposition of cash conditions on one casino patron. Mr. Desmarais, Ms. Wenezenki-Yolland, and Mr. Meilleur all gave evidence of this meeting. While it is clear from their descriptions of the meeting that all four were describing the same event, Mr. Desmarais recalled that it took place in December 2014 and Ms. Wenezenki-Yolland and Mr. Meilleur both testified that it occurred in January 2015.[683] The month in which the meeting took place is not particularly material, but the contents of the discussion that took place at the meeting are.

In her affidavit, Ms. Wenezenki-Yolland indicated that Mr. Desmarais suggested in this meeting that increasing suspicious cash transactions could be explained by cultural preferences and the use of *hawala*:[684]

> In response to questions during his presentation, Mr. Desmarais described what he thought was behind the increase in [suspicious cash transactions]. I understood Mr. Desmarais to be suggesting that some of the suspicious cash entering BC casinos could be explained as the result of cultural practices. He explained that foreign visitors had a preference for cash and that they may have been obtaining this cash through a practice known as hawala.
>
> I had not heard of hawala prior to this presentation, but based on my knowledge of finance and banking regulations, this explanation was concerning to me. I recall telling Mr. Desmarais that if his theory was true, BCLC should not be accepting this cash and that government would not want that business.

Mr. Desmarais agreed that he advised Ms. Wenezenki-Yolland that large cash transactions in the province's casinos could be partly attributable to underground banking. Mr. Desmarais recalled that he indicated that cash facilitation could be a component of underground banking but could not recall if he mentioned the suspected connection between cash facilitators and criminality or that BCLC had been meeting with CFSEU about cash facilitators.[685]

Based on Ms. Wenezenki-Yolland's recollections of and reaction to this meeting, I am satisfied that the focus of Mr. Desmarais's presentation was on the possibility that the source of the suspicious cash observed in casinos was underground banking and that he did not emphasize suspected links between cash facilitation and

683 Exhibit 922, Affidavit #1 of Cheryl Wenezenki-Yolland, sworn on April 8, 2021 [Wenezenki-Yolland #1], para 96; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 84–85, 117–18; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 40–41; Evidence of L. Meilleur, Transcript, March 10, 2021, pp 93–94.

684 Exhibit 922, Wenezenki-Yolland #1, paras 97–98.

685 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 117–18.

criminality.[686] As with the article written in the *Yak* by Mr. Desmarais approximately two months earlier, I have difficulty understanding how, at a time when BCLC's concern about the origins of these funds was so great that it was actively seeking police intervention, Mr. Desmarais could have neglected to focus on the likelihood that they were the proceeds of crime. Clearly, this was a material omission, and I find that this omission had the effect of misleading Ms. Wenezenki-Yolland and, by extension, the minister, whom Ms. Wenezenki-Yolland subsequently briefed on Mr. Desmarais' presentation.[687]

GPEB Response to Rising Large and Suspicious Cash Transactions

In 2014 and into the early part of 2015, GPEB also responded to the increase in large cash transactions and cash facilitation observed in the industry. In GPEB's case, this response took the form of efforts to identify action to be taken as part of phase three of the anti–money laundering strategy developed in 2011. As these efforts were underway, however, GPEB also undertook a major organizational review and restructuring that led to significant turnover in the senior staff responsible for GPEB's anti–money laundering response. While I do not suggest that there was anything improper or inappropriate about this review or the restructuring decisions that flowed from it, it appears that this undertaking divided GPEB's attention at a critical juncture and ultimately slowed its response to the growing suspicious activity in British Columbia's casinos.

Efforts to Define Phase Three of the Provincial Anti–Money Laundering Strategy

Mr. Mazure testified that, in January or February 2014, he became aware of an increase in the rate of suspicious transactions occurring in the province's casinos.[688] He testified that, in response to this increase, he indicated to GPEB's anti–money laundering working group that there was a growing sense of urgency with respect to this issue and encouraged the group to "move things along a little bit quicker."[689] While I do not doubt that Mr. Mazure pressed his staff to increase the pace of its work, I note that, at this stage, GPEB was continuing its efforts to determine the content of phase three of the provincial anti–money laundering strategy developed in 2011 and 2012, which was originally scheduled for implementation in December 2013.

686 Mr. Meilleur's evidence in this regard is not clarifying. The transcript of his evidence indicates that Mr. Meilleur suggested that Mr. Desmarais attributed "the cash coming into casinos for certain patrons" to a "money laundering culture." Upon review of the recording of his evidence, however, it appears that Mr. Meilleur actually said "money lendering culture." In the broader context of Mr. Meilleur's evidence, I believe that he meant to say "money lending culture": Evidence of L. Meilleur, Transcript, February 12, 2021, pp 41–42.

687 Exhibit 922, Wenezenki-Yolland #1, para 99.

688 Evidence of J. Mazure, Transcript, February 5, 2021, p 23.

689 Ibid.

Malysh Associates Consulting's "Client Due Diligence in BC Casinos" Report

In September 2014, Malysh Associates Consulting Inc. produced a report titled "Client Due Diligence in BC Casinos" for GPEB's anti–money laundering working group.[690] Mr. Mazure's evidence was that the report was intended to inform GPEB's efforts to identify the type of action that could be taken as part of phase three of the anti–money laundering strategy.[691] The purpose of the report is described in the "terms of engagement" set out on page three of the document:[692]

> We were asked to develop information relating to the management practices used by deposit-taking institutions, money service businesses, brokerage firms, and gaming businesses for cash deposit transactions.
>
> Our report summarizes best practices based upon experiences of businesses that are required to maintain an AML compliance regime under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its Regulations.
>
> Additionally, we are to report on other AML compliance issues that we may encounter during our research to assist GPEB with conducting a gap analysis of their AML policies.

In describing the anti–money laundering practices of deposit-taking institutions related to cash deposits, the report notes that:[693]

> Banks used to allow their clients to deposit large quantities of cash without questioning its source. Since the enactment of AML laws, banks routinely conduct [know your customer / customer due diligence] inquiries to deter [money laundering / terrorist financing] activities. This includes asking clients the source of funds and making a record of the response.

The report goes on to explain that, in such institutions, "[w]hen cash over $10,000 is tendered, a supervisor will interview the client to determine the source of funds and other related questions to ensure the deposit is of non-criminal origin"[694] and that some institutions require customers to complete and sign a source-of-funds declaration.[695] It further notes that most deposit-taking institutions "have adopted a policy to exit a client relationship if more than [three suspicious transaction reports] have been filed against the client".[696]

690 Exhibit 181, Vander Graaf #1, paras 87–88 and exhibit CC.

691 Exhibit 541, Mazure #1, para 73.

692 Exhibit 181, Vander Graaf #1, exhibit CC, p 3.

693 Exhibit 181, Vander Graaf #1, exhibit CC, p 11; Evidence of L. Meilleur, Transcript, February 12, 2021, p 12.

694 Exhibit 181, Vander Graaf #1, exhibit CC, p 12.

695 Ibid.

696 Ibid, exhibit CC, p 11.

In respect of gaming businesses, the report provides that the consultants conducted a survey of compliance officers of casinos in Canada, Nevada, and Washington state.[697] The report noted that the "current US [money laundering] issue is to conduct [customer due diligence] for determining source of wealth and source of funds."[698] It provided that "[s]ource of funds and source of wealth interviews are becoming normal procedures as FINCEN is developing policy initiatives to increase [know your customer / customer due diligence] activities."[699] It further explained that casinos in Ontario "will not allow more than $10,000 to $15,000 cash/in. These large deposits trigger a [customer due diligence] interview to learn the source of funds. The interview is usually conducted by [an] [Ontario Provincial Police] police officer [stationed at the casino]."[700]

The report concluded with two recommendations, made in response to the direction to the consultants to "comment on any gaps [they] encountered that may assist GPEB in its role as regulator of the gaming industry."[701] The first of these called for the creation of an "AML compliance regime regulation":[702]

> We believe that GPEB could greatly enhance its leadership in AML compliance by creating an AML compliance regime regulation under the Gaming Control Act/Regulations. Additionally, a companion Guideline for Deterring and Detecting Money Laundering should be implemented to establish the policy expectations of the new regulation. Alternatively, a Public Interest Directive could be issued to establish GPEB's AML program.
>
> The intention is to direct gaming industry businesses in their responsibility to develop and maintain robust AML compliance programs that meet GPEB's governance and control expectations.
>
> The Guideline is not to replace the federal guidelines published by FINTRAC nor create any new requirements under federal legislation.
>
> They are to establish the "tone at the top" and provide industry specific policy for AML compliance expectations.
>
> As an example, if GPEB wants specific policy for the determination of source of funds, the policy expectation can be specified in the Guideline. Gaming businesses can determine the procedures required to comply with policy.

697 Ibid, exhibit CC, p 22.
698 Ibid.
699 Ibid, exhibit CC, p 23.
700 Ibid.
701 Ibid, exhibit CC, pp 27–28.
702 Ibid, exhibit CC, p 27.

The second recommendation made in the report was to establish a "police-accredited unit" to perform a number of functions identified below:[703]

> GPEB currently does not have resources dedicated to criminal intelligence and crime analysis relating to the gaming industry.
>
> Further, the province does not have dedicated police officers responsible for gaming related investigations and prosecutions.
>
> GPEB should consider establishing a police-accredited unit to provide policing services for the gaming industry, including but not limited to:
>
> - criminal intelligence and risk analysis
> - investigations and prosecutions
> - liaison with police departments in communities that host casinos
> - information sharing program between GPEB, the BC police community, FINTRAC, and other law enforcement agencies
> - assist GPEB's Special Provincial Constables with conducting intelligence inquiries
> - annual reporting to GPEB executive on the overall risks to gaming
> - subject-matter experts in gaming industry related issues

Len Meilleur, who was the executive director of GPEB's registration and certification division at the time the report was completed, was also a member of a GPEB subcommittee focused on customer due diligence.[704] He testified that this report was received by the subcommittee and that the subcommittee discussed the example raised in the report of a policy related to determination of the source of funds used in the gaming industry.[705] Mr. Meilleur's view was that the creation of such a policy would have required that the general manager of GPEB receive a direction to that effect.[706]

Mr. Mazure was also asked about the recommendation that GPEB create an anti–money laundering compliance regime regulation and the example offered in that report of a policy for determination of source of funds as part of that regulation.[707] In response, Mr. Mazure testified that the notion of requiring service providers to obtain source-of-funds declarations had arisen within GPEB prior to this report and that the report would

703 Ibid, exhibit CC, p 28.

704 Evidence of L. Meilleur, Transcript, February 12, 2021, pp 10–11; Exhibit 587, Affidavit #1 of Joseph Emile Leonard Meilleur, made on February 9, 2021 [Meilleur #1], paras 20–21.

705 Evidence of L. Meilleur, Transcript, February 12, 2021, p 17.

706 Ibid.

707 Evidence of J. Mazure, Transcript, February 5, 2021, pp 38–41, 186–90.

have offered some endorsement of this option.[708] Mr. Mazure acknowledged, however, that no steps were taken at this time to implement this recommendation, linking this inaction to uncertainty as to the extent of GPEB's authority:[709]

> [W]e were reviewing this. And this particular one is interesting in the way it's worded … I think we need[ed] to do a little bit of work going back to the reviewer because some of the language here that's used … we needed to better understand exactly what they were talking about, like a companion guideline for … detecting the money laundering.
>
> I'm not sure even to this day what that means. I might have known at the time, but I think we had to further explore that. And then – within our legislative framework, I guess is what I'm saying. I'm not sure … the language used here necessarily translates to that. So, we would have looked at okay, what is he really getting at here and … what are the mechanisms around under our legislation that would allow us to do that. So there was … some more work that was required there.

Mr. Mazure went on in his evidence to suggest that GPEB "would have" obtained a legal opinion as to whether a policy of the sort proposed was consistent with the relevant statutory provisions, but did not seem to have an actual recollection of having done so, or any advice that GPEB received.[710] He suggested that the fact that GPEB did not pursue this type of measure later in his tenure meant that there must have been a reason why GPEB could not do so, but he could not recall what that reason was:[711]

> We didn't explore it later on in my tenure, so to me that suggests there was sort of some reason why we couldn't do it. And I just cannot for the life of me remember what that was.

While GPEB did not unilaterally seek to implement a measure of this sort during Mr. Mazure's tenure, GPEB did eventually, in September 2015, seek a directive from the minister responsible for gaming. In doing so, GPEB put forward to the minister example directives that included measures aimed at requiring verification of the source of funds.[712] That GPEB sought the minister's intervention at that time supports Mr. Mazure's evidence that GPEB likely concluded that it did not have the unilateral authority to implement such measures itself. I address these proposed directives and the minister's response in Chapter 11.

708 Evidence of J. Mazure, Transcript, February 5, 2021, pp 40–41, 190–92.

709 Ibid, p 192.

710 Ibid, p 194.

711 Ibid, p 194.

712 Exhibit 553, MOF Briefing Document, Options for Issuing Anti–Money Laundering Directives to BCLC (September 1, 2015).

January 2015 Briefing Document

GPEB continued to consider the actions it could take as part of phase three of the anti–money laundering strategy following receipt of the report prepared by Malysh Associates Consulting Inc. In January 2015, Mr. Mazure directed Terri Van Sleuwen, then an executive director with GPEB responsible for the Branch's audit program,[713] to prepare a briefing document identifying actions that GPEB could take to "ensure that the integrity of BC's gambling industry is protected from those that would attempt to use the industry to legitimize funds and proceeds resulting from criminal activities."[714]

In response to this direction, Ms. Van Sleuwen prepared a briefing document titled "Minimizing Unlawful Activity in BC Gambling Industry" dated February 6, 2015. The report identified that phases one and two of the anti–money laundering strategy were substantially complete and that the completion of the Malysh and Associates report was part of phase three.[715] While the document indicated that phase three of the strategy had commenced at this stage, it also made clear that GPEB was still in the process of developing "potential direct intervention options."[716] I find accordingly that, more than a year after the scheduled December 2013 implementation of phase three of the anti–money laundering strategy, GPEB continued to work to determine the action that would form part of that phase of the strategy and had not yet commenced the direct "regulator intervention" contemplated if the introduction and promotion of cash alternatives undertaken in the first two phases of the strategy failed to yield satisfactory results, which it is clear they had.

In this briefing document, Ms. Van Sleuwen made the following recommendation:[717]

- A multi-prong approach should be considered as there are areas where we need to be prescriptive because our tolerance for risk is less and other areas where we can provide general expectations because our tolerance for risk is higher.
- Initiate a multi-prong approach which includes the following components:
    - Make changes to the *Gaming Control Act Regulation:* introduce regulations that provide high level expectations for the BC gambling industry to prevent unlawful activities at BC casinos, particularly, in relation to anti-money laundering.
    - Introduce a public interest standard, excluding the enhanced procedures, and a regulation change which requires that service providers, as a condition of their registration, must comply with

713 Exhibit 1044, Affidavit #1 of Terri Van Sleuwen, sworn on August 23, 2021.

714 Exhibit 542, MOF Briefing Document, Minimizing Unlawful Activity in BC Gambling Industry (February 6, 2015), p 1.

715 Ibid, p 1.

716 Ibid, p 4.

717 Ibid, p 8.

Enhanced Cash Transaction Handing Procedures and Enhanced Reporting Requirements, as outlined above, as established by GPEB.

- Prepare a directive to BCLC to outline GPEB participation in building a Patron Banning Strategy which may include: BCLC and service provider banning criteria; circumstances where GPEB would ban a patron; and, timeframes for bans.

- Solicit input from GPEB AML Working Groups and Industry Working Group during development and implementation stages.

The "Enhanced Cash Transaction Handling Procedures" and "Enhanced Reporting Requirements" referred to in these recommendations were also set out in this briefing document.[718] The proposed cash transaction handling procedures included a number of measures that would have restricted the use of cash in casinos, including:[719]

- Cash transactions (in bundles and denominations of $20) received in excess of prescribed amount cannot be accepted.

- No cash transactions allowed in high limit rooms.

- Mandatory use of PGF accounts for transactions in excess of prescribed amount.

- Establish a maximum amount of small denomination bills for casino buy-in by a single patron

Mr. Mazure testified that he viewed the recommendations set out in this briefing document as being very ambitious for the time.[720] He understood that he did not have the authority to implement those recommendations himself and that that involvement of the associate deputy minister and minister would have been required.[721] Mr. Mazure could not recall with certainty whether he forwarded the briefing document to these senior levels of government but was "fairly certain" he did not "take [it] forward."[722] Mr. Mazure suggested that, instead of advancing this recommendation to government, GPEB began discussing these changes with BCLC and other stakeholders, including as part of a workshop held in June 2015,[723] which I discuss in Chapter 11.

During his testimony, Mr. Mazure was asked specifically about the suggestion in the briefing note that a term and condition of registration be established limiting the amount of cash that service providers could accept in $20 bills.[724] Mr. Mazure

718 Ibid, p 7.

719 Ibid.

720 Evidence of J. Mazure, Transcript, February 5, 2021, pp 47–49.

721 Ibid, pp 49–50.

722 Ibid, p 49.

723 Ibid, p 51.

724 Ibid, pp 52–54.

agreed that he understood that, as general manager, he had the authority to set terms and conditions of registration without any outside approval.[725] Mr. Mazure could not recall, given his understanding of his authority, why he did not implement this particular measure. He suggested that he likely would have obtained legal advice on the matter and that the reason why it was not implemented may have been connected to the prohibition on GPEB infringing on BCLC's mandate to "conduct and manage" gaming.[726]

Given the limits of Mr. Mazure's memory, I am left with an unsatisfying account of what was done with the recommendations made by Ms. Van Sleuwen and, in particular, why the limits on cash transactions proposed in those recommendations were not implemented. Based on Mr. Mazure's evidence, however, and the absence of any evidence to the contrary, I am able to find that neither this briefing document nor the recommendations contained within it were forwarded to Ms. Wenezenki-Yolland or to the sitting minister responsible for gaming. As I discuss in Chapter 11, it is clear that in the years that followed this briefing document, Mr. Mazure became increasingly frustrated by what he perceived to be BCLC's inaction with respect to large and suspicious cash transactions in the Ministry of Finance's casinos. In that context, the absence of any evidence that GPEB meaningfully pursued these measures suggests that, even as he criticized his counterparts at BCLC for their failures to act, Mr. Mazure and GPEB had not exhausted all avenues available to respond to the issue themselves.

2014 GPEB Review and Reorganization

As GPEB considered its response to the increasing large cash transactions taking place in the industry it was responsible for regulating, it was also engaged in an organizational review and, eventually, reorganization. A few months into his tenure with GPEB, Mr. Mazure initiated this review, which was conducted by the province's Strategic Human Resources Branch.[727] In his affidavit, Mr. Mazure described the origins and purpose of the review:[728]

> By late November 2013, I had several conversations with Ms. Wenezenki-Yolland about lacking sufficient information regarding GPEB's operations, challenges, and opportunities in several areas. I expressed a need for this information to chart a course for GPEB and to better position the organization to meet its mandate in a rapidly evolving gaming environment.
>
> This led to a review of GPEB by the Ministry of Finance Corporate Services Division Strategic Human Resources Branch. This review was intended to further identify areas where additional information was required and to get an independent, unbiased view of what the organization was doing to help inform future direction and actions.

725 Ibid, p 53.

726 Ibid, pp 53–54.

727 Exhibit 541, Mazure #1, paras 78–86; Exhibit 922, Wenezenki-Yolland #1, paras 59–63.

728 Exhibit 541, Mazure #1, paras 78–83.

> The review was not about personalities or individual performance, but about determining what GPEB was doing, whether it was getting results.
>
> I did not believe that GPEB had the capacity to manage this review internally. I was familiar with the Strategic Human Resources Branch of the Ministry of Finance and their capacity to conduct such reviews from my previous experience with the Ministry of Finance.
>
> The Strategic Human Resources Branch conducted the review using their own methodology. I was the executive sponsor of the review with the support of Ms. Wenezenki-Yolland.
>
> I met with the person overseeing the review in late January 2014 and the review got underway in April 2014.

Mr. Mazure expanded upon some of the issues that motivated the review in his oral evidence.[729] He explained that he hoped to "get a sense of what [GPEB was] actually doing and whether it was serving our ends, whether we were focusing on the right things, whether we were being effective."[730] Mr. Mazure also identified specific concerns he had at the time about low morale within the organization generally and about his perception that the GPEB audit and investigation divisions were working in silos.[731]

The results of this review were set out in a September 18, 2014, report.[732] These results were expressed, in part, through the identification of 20 "main themes and issues," which were categorized into the following four categories:[733]

1. "Maintain performance" – themes and issues not deemed significant concerns and which are recommended to continue at current levels as much as possible;
2. "Improve performance" – programs, services and/or issues that "require enhancing in the area of quality of delivery, quantity, timeliness, or costs";
3. "Establish performance" – issues "where nothing is being done, and actions or strategies need to be put in place"; and
4. "Extinguish performance" – "issues that GPEB must stop."

Of particular relevance to the mandate of this Commission, the issues included in the "improve performance" category included "Investigations Leadership, Priorities,

729 Evidence of J. Mazure, Transcript, February 5, 2021, p 86–87.

730 Ibid, p 86.

731 Ibid, pp 86–87.

732 Exhibit 546, MOF Gaming Policy and Enforcement Branch Review (September 18, 2014).

733 Ibid, pp 4–5, 23–24.

Quality of Files and Staff Competence"[734] and "Enhance Relationships with Key Stakeholders."[735] With respect to the first of these, the report noted that "[i]nterviews with GPEB staff, the Executive Director of Investigations and Regional Operations, and BCLC executives raise several concerns around the leadership, current priorities and actions, quality of work and staff competence [within the Investigations and Regional Operations Division]." It included the following recommendation:[736]

> A new investigations program is recommended for GPEB, built on evidence generated from a review of the area's current actions. This division is a critical component of GPEB's mandate, and the organization cannot risk its credibility or the integrity of gambling in the province by continuing investigations operations in this manner. One of the outcomes of an investigations review is the messaging it sends to staff, the GPEB and the ADM, GPEB are interested in developing an accountable and transparent organization.

The discussion of the investigation division included concerns about the division's relationship with BCLC, which it described as "so adversarial it has resulted in dysfunction in several layers within the division and BCLC."[737]

This theme was expanded upon in the next issue addressed in the report, the need to "enhance relationships with key stakeholders."[738] This section identified strained relationships between various GPEB divisions and a number of stakeholders, including the Ministry of Finance executive,[739] but focused on the relationship between BCLC and the investigation and other divisions of GPEB, concluding, in part:[740]

> Trust not only does not exist between BCLC and GPEB's Audit and Compliance, Investigations, and the Corporate Services Divisions – it has been broken. Operating in a broken trust environment has resulted in unsatisfactory handling of investigations files (as described in the previous section), duplication of work (such as BCLC investigators re-writing [Reports to Crown Counsel] drafted by GPEB investigators, or auditors at BCLC, KPMG and GPEB conducting the same audit), and withholding of information due to suspicion over the reason for it being requested. Strong resentment and disregard for professional competence and integrity exists between BCLC and GPEB in all of these divisions. Overall, this results in an increase in time spent on regulatory and policy issues, and this time could be used much more productively. If the relationship continues with no change, GPEB will always be reactive in its policy and issues management,

734 Ibid, p 31.
735 Ibid, p 32.
736 Ibid, p 33.
737 Ibid, p 32.
738 Ibid.
739 Ibid, pp 33–34.
740 Ibid, p 34.

> and will continue to stale date as a regulator in a dynamic industry. The entire system of how gambling is regulated in the province could be made more efficient with a focus on mending the broken relationship with BCLC.

An additional issue identified in the report that is of relevance to the Commission's mandate is the inadequacy of the legislative and regulatory regime under which GPEB operated at the time. The report recommended that GPEB build a business case for a "comprehensive legislation and regulatory review" describing the challenges arising from the *Gaming Control Act* as it existed at the time as follows:[741]

> One of the most significant issues raised through the Review by staff, BCLC executives, and GPEB Executive Team is the poor legislative and regulatory framework under which gambling in BC operates. It is a well-known sentiment among almost all in the industry that the *Gaming Control Act* does not meet the needs of the regulator. The organizations that came together to form GPEB brought their respective legislation, regulations, and policy and pasted together an Act without much strategic consideration for the future implications of gambling in the province. It is also a common sentiment heard throughout GPEB that the *Act* does not provide a modern framework that is flexible and adaptable to the needs of the regulator, BCLC, service providers, and other key stakeholders in the industry. The *Act* also did not take into consideration the differences in regulating technology-based business such as eGaming and electronic 50/50 fundraising events. In general, the *Act* is not an enabler of GPEB's mandate; it is inconsistent between its sections, requires GPEB to continue regulatory actions and programs that were once a priority but are now deemed low risk, and is out of date in terms of providing a modern compliance and enforcement direction that supports the desired future state of GPEB. The *Act* is built in sections based on the current GPEB structure, and if the future organizational design of GPEB includes consolidation of divisions and program areas, there is an additional urgency to revising and updating it.

Finally, the report included a recommendation that GPEB be restructured, concluding that "making no change to the current GPEB structure is not a viable option" and that "significant structural change" was required for GPEB "to successfully achieve its new vision and mission."[742] The report offered two options for reorganizing GPEB, both of which involved a significant reduction in the number of divisions in the organization, which stood at eight prior to the review.[743] The first option proposed reorganizing GPEB into three divisions: compliance and enforcement; responsible and problem gaming, and grants; and policy and corporate services.[744] The second proposed four divisions, including the three identified in the first model, as well as a separate

741 Ibid, p 47.

742 Ibid, p 50.

743 Ibid, pp 51–54

744 Ibid, p 51.

licensing, registration, and certification division, removing these areas of responsibility from the compliance and enforcement division, where they were located in the three-division model.[745] In both proposed models, the functions of the investigation division were encompassed within the new compliance and enforcement division.

Investigations and Regional Operations, Audit, and Compliance Divisions Review

As noted above, this review identified significant concerns about the GPEB investigation and regional operations divisions as well as the audit and compliance division. From Mr. Mazure's evidence, I understand that, as these issues began to come to light in the course of the review, the need for particular expertise to properly consider these matters was identified:[746]

> As part of the Strategic Human Resources Branch review of GPEB, a supplementary report was prepared regarding the Investigations and Audit Divisions.
>
> The need for this supplementary report was not identified initially. I met periodically with those overseeing the Strategic Human Resources Branch review. During the review, an issue was identified regarding the need for caution in the use of information gathered through investigations and audits as the use of information obtained through these regulatory activities in criminal proceedings could pose a problem. This was an issue that GPEB needed to be aware of in considering integrating the work of its various compliance-related functions.
>
> It became clear that expertise was needed to address this issue. Tom Steenvoorden of Police Services Division, Ministry of Public Safety and Solicitor General was brought in to address this issue.

The engagement of Mr. Steenvoorden resulted in a second report, also dated September 18, 2014, focused specifically on these two divisions.[747] As with the first report discussed above, this second report raised concerns about the leadership of the investigation division and its relationship with other stakeholders, among other issues.[748] It noted that, "based on the interviews conducted, it is suspected that the intransigent position taken by the current Investigation Division leadership has led to the current dysfunctional relationship with stakeholders."[749] While the report itself did not identify the nature of this "intransigent position," Mr. Mazure, in his evidence, suggested that it referred to the division's views on "suspicious cash and what should be done to address the problem" and to

745 Ibid, p 53.

746 Exhibit 541, Mazure #1, paras 87–89.

747 Exhibit 547, MOF GPEB Review Investigations and Regional Operations and Audit and Compliance Divisions Review (September 18, 2014).

748 Ibid, p 4.

749 Ibid.

Mr. Vander Graaf's unwillingness to "entertain and discuss" other viewpoints on this issue.[750] What this report does not address was whether Mr. Vander Graaf's views on the criminal origins of the suspicious cash and the implausibility of some of the alternative theories being advanced were correct. As I discuss in Chapter 13, it is clear that they were.

Reorganization of GPEB and Terminations of Mr. Schalk and Mr. Vander Graaf

Following receipt of these two reports, Mr. Mazure proceeded with reorganizing GPEB by consolidating its eight divisions into fewer, smaller divisions.[751] Rather than adopting either of the models proposed in the review, GPEB was reorganized into five divisions, with the investigations and regional operations divisions consolidated into a newly reconstituted compliance division, led by Mr. Meilleur.[752] Mr. Mazure testified that, as part of this reorganization, five senior management positions became redundant, including those of Mr. Schalk and Mr. Vander Graaf, who were terminated in early December 2014.[753]

Both Mr. Schalk and Mr. Vander Graaf testified that they believe that they were terminated from their positions because they persistently raised concerns about money laundering in British Columbia's gaming industry.[754] Mr. Mazure and Ms. Wenezenki-Yolland unequivocally denied that Mr. Vander Graaf's and Mr. Schalk's position on suspicious transactions of money laundering was in any way the cause of their termination.[755]

I accept the beliefs of Mr. Vander Graaf and Mr. Schalk in this regard as sincere. I can understand how, after many years of persistently raising concerns about the growth of suspicious cash in the industry as little was done to address these concerns, it would seem likely to Mr. Schalk and Mr. Vander Graaf that this would have been connected to their termination. Further, based on the evidence before me, it appears that there was at least a grain of truth in these beliefs. Mr. Steenvoorden's report, discussed above, raises concerns about the investigation division's relationships with other stakeholders, identifying their "intransigent position" as a source of the problems in those relationships.[756] Mr. Mazure understood this to be a reference to the division's views on suspicious cash transactions.[757]

750 Exhibit 541, Mazure #1, para 105; Evidence of J. Mazure, Transcript, February 5, 2021, pp 96–97.

751 Exhibit 541, Mazure #1, paras 122, 125.

752 Exhibit 541, Mazure #1, paras 122,125; Exhibit 587, Meilleur #1, para 29.

753 Exhibit 541, Mazure #1, paras 125–27; see also Evidence of J. Schalk, Transcript, January 22, 2021, p 152; Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 223; Exhibit 181, Vander Graaf #1, para 143 and exhibit QQ.

754 Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 223; Evidence of J. Schalk, Transcript, January 22, 2021, pp 153–56; Exhibit 181, Vander Graaf #1, paras 143–44.

755 Exhibit 541, Mazure #1, para 129; Exhibit 922, Wenezenki-Yolland #1, para 71; Evidence of J. Mazure, Transcript, February 5, 2021, p 107; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 33–34.

756 Exhibit 547, MOF GPEB Review Investigations and Regional Operations and Audit and Compliance Divisions Review (September 18, 2014), p 4.

757 Exhibit 541, Mazure #1, para 105; Evidence of J. Mazure, Transcript, February 5, 2021, pp 96–97.

A briefing document prepared by Mr. Mazure for Ms. Wenezenki-Yolland regarding the terminations of those whose positions were made redundant following the reorganization of GPEB made clear that the concerns identified in the review were a factor in the decision to terminate Mr. Schalk and Mr. Vander Graaf. It said, in part:[758]

> - Successful implementation of review recommendations and transition to the new regulatory approach described above would be highly improbable and not without significant risk under existing [investigation division] leadership given the concerns identified [based on the review findings and recommendations] and the key leadership competencies (e.g., accountability, collaboration, information sharing, change management, results-oriented) required going forward.
>
> - The [assistant deputy minister, Mr. Mazure] does not have the confidence that Larry Vander Graaf and Joe Schalk have the abilities to implement, nor would they be likely to support, the new regulatory compliance framework and the role of the investigations function within it. Current [investigation division] leadership has a fundamentally different perspective on the purpose of the investigative function that is not aligned with a modern regulatory approach.
>
> - In summary, the [assistant deputy minister] lacks confidence and trust in … Larry Vander Graaf and Joe Schalk based on his experience at GPEB over the last 12 months and the concerns identified in the review.
>
> - Based on the concerns identified in the review regarding the leadership competencies of Larry Vander Graaf and Joe Schalk and their classification levels, there are no equivalent positions elsewhere in GPEB to place the two individuals.
>
> - For the same reason, placing these individuals elsewhere in government would carry the same risks.

Clearly, it was not the case that Mr. Vander Graaf and Mr. Schalk were terminated solely because their positions were made redundant. A further factor was that Mr. Mazure did not have confidence that either would be willing or able to implement the changes to the organization he thought necessary. His concerns in this regard were grounded, in part, in the conclusion that the GPEB investigation division could not maintain constructive relationships with other stakeholders.[759] The primary source of the relationship challenges identified in the review on which Mr. Mazure relied was their intransigent position on suspicious transactions. As such, the dismissal of Mr. Vander Graaf and Mr. Schalk was not entirely divorced from their position regarding

758 Exhibit 549 (previously marked as Exhibit C), MOF Gaming Policy & Enforcement Briefing Note prepared for Cheryl Wenezenki-Yolland (November 26, 2014), p 3.

759 Ibid, pp 1–2.

suspicious cash. For years they had been vocal and persistent advocates of that position. While the manner in which they voiced their concerns may have rubbed some the wrong way, they were ultimately correct.

That said, I am persuaded that neither Mr. Mazure nor Ms. Wenezenki-Yolland terminated Mr. Vander Graaf or Mr. Schalk in order to silence them for the purpose of facilitating the continued acceptance of proceeds of crime in the province's casinos. Ms. Wenezenki-Yolland, who advised Mr. Mazure that her preference was that these individuals be placed in roles within GPEB or elsewhere in government rather than terminated,[760] reasonably relied on the advice she received from Mr. Mazure about what was required. As for Mr. Mazure, I accept that he based his decision in part on the reality that the reorganization rendered some positions redundant and on his genuine concern about interpersonal difficulties and other issues identified in the review. While I accept that a history of interpersonal conflict was a valid consideration and acknowledge that it was not the sole issue raised in the review, I do wonder if the nature of this conflict may have been viewed differently by the reviewers and by Mr. Mazure had they recognized that any intransigence on the part of Mr. Vander Graaf and Mr. Schalk was grounded in a multi-year history of their accurate warnings about illicit cash and money laundering in British Columbia casinos being ignored and belittled. It is not surprising that the reviewer may have been unaware of this dynamic. By the end of 2014, however, Mr. Mazure should have been.

GPEB Investigative Function Under Mr. Meilleur

Mr. Meilleur testified that he was appointed executive director of GPEB's newly constituted compliance division on the same day that Mr. Vander Graaf and Mr. Schalk were terminated from their positions.[761] In this role, Mr. Meilleur became responsible for some, but not all, of GPEB's investigative staff.[762] This included six GPEB casino investigators stationed in the Lower Mainland who reported to Mr. Dickson.[763]

After assuming responsibility for the compliance division, Mr. Meilleur instituted reforms to GPEB's investigative operations informed by the review leading to the Branch's reorganization. These included more closely integrating the new compliance division's audit and investigation functions,[764] changing filing protocols for reports submitted to GPEB pursuant to section 86 of the *Gaming Control Act*,[765] and meeting monthly with Mr. Desmarais and, later, his successor Mr. Kroeker in order to rebuild the relationship with BCLC.[766] As I discuss in more detail in Chapter 11, Mr. Meilleur

760 Exhibit 922, Wenezenki-Yolland #1, para 71.

761 Exhibit 587, Meilleur #1, para 29; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 31–32.

762 Evidence of L. Meilleur, Transcript, March 10, 2021, pp 146–49; Exhibit 710, GPEB Organization Chart (January 26, 2015).

763 Evidence of L. Meilleur, Transcript, March 10, 2021, p 146.

764 Evidence of L. Meilleur, Transcript, February 12, 2021, p 33.

765 Ibid, pp 33–34.

766 Exhibit 587, Meilleur #1, para 32.

would also establish an intelligence unit within the new compliance division in 2016.[767]

It is clear from Mr. Meilleur's evidence, however, that suspicious cash transactions remained a focus of GPEB's casino investigation staff and that, like Mr. Vander Graaf, he struggled with how to deploy the investigators under his direction in response to this issue. Mr. Meilleur testified that, following his appointment to this new role, he was advised by the casino investigations staff who remained from Mr. Vander Graaf's tenure that they continued to have concerns about money laundering in the province's casinos.[768] These individuals wanted the new division to continue to respond to this issue.[769]

Mr. Meilleur testified that, while money laundering remained a priority for GPEB, he understood that the role the Branch could play in responding to this issue was constrained by the *Gaming Control Act*.[770] His evidence was that he received legal advice that the investigation of money laundering was outside of GPEB's mandate and properly the responsibility of law enforcement.[771] Mr. Meilleur understood that GPEB's role was to "collect information, share it with the police, support any requests for assistance, and report up."[772] This role did not, according to Mr. Meilleur, include interviewing patrons about the source of funds they used in transactions in the province's casinos.[773]

While Mr. Meilleur appears to have accepted this advice, it is clear that, like the investigators under his direction and his predecessor, Mr. Vander Graaf, he was dissatisfied with the limits on GPEB's capacity to respond to the elevated levels of suspicious transactions occurring in British Columbia's casinos. He testified that he was troubled by the legal opinions he received and the absence of any authority to bar people from casinos.[774] Mr. Meilleur's evidence was that, in his view, there was a need for changes to the governing legislation or direction or guidance from senior levels of government as to what GPEB should to "to curtail money laundering"[775] but that he felt as though the onus of resolving this issue was placed on him and his team without support from those senior levels of government.[776]

Despite this perceived lack of support, Mr. Meilleur and the newly constituted compliance division that he led would soon make significant strides in persuading both GPEB's leadership and senior government officials of the magnitude of the problem posed by suspicious cash transactions in the province's casinos at that time. As I discuss in the next chapter, with suspicious transactions spiking in the summer of

767 Ibid, paras 61–62.

768 Exhibit 587, Meilleur #1, para 67; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 42–43.

769 Ibid.

770 Exhibit 587, Meilleur #1, para 68.

771 Ibid, paras 31, 68–69, 73.

772 Ibid, para 68.

773 Evidence of L. Meilleur, Transcript, February 12, 2021, pp 34–35; Transcript, March 10, 2021, pp 63–64, 102–7.

774 Evidence of L. Meilleur, Transcript, March 10, 2021, pp 14–16.

775 Ibid, p 16.

776 Evidence of L. Meilleur, Transcript, February 12, 2021, p 133; Transcript, March 10, 2021, pp 13–14.

2015, a confluence of factors, including an analysis of these transactions undertaken by investigators under Mr. Meilleur's supervision, prompted greater interest and action on the part of multiple gaming industry actors, leading to the beginning of a decline in the rate at which suspicious cash was entering the province's casinos.

Chapter 11
Gaming Narrative: 2015–2017

The summer of 2015 marked a critical turning point in efforts to combat money laundering and proceeds of crime in British Columbia's gaming industry. Two events in particular seem to have shed new light on the nature and scale of the challenge facing the industry. The first of these involved revelations uncovered as part of an RCMP investigation into suspicious transactions at the River Rock Casino. The second was an analysis undertaken by two GPEB investigators of suspicious transactions in Lower Mainland casinos that occurred during July 2015, revealing a spike in suspicious transactions that month. I do not mean to suggest that the nature and extent of the proceeds of crime and money laundering problem facing the province's gaming industry could not or should not have been appreciated prior to these events, or that the responses prompted by these events were sufficient to the information they revealed. It is clear, however, that these events left GPEB, BCLC, and government with little doubt that the province's gaming industry faced significant risks associated with acceptance of the proceeds of crime and sparked meaningful action from stakeholders to combat this issue. Despite some level of consensus as to the existence of this problem and the need for action, however, these events did not result in agreement among stakeholders as to precisely what measures were required to address the problem, and significant debate ensued as to the appropriate and necessary response to this issue.

June 2015 "Exploring Common Ground, Building Solutions" Workshop

In the spring of 2015, Mr. Meilleur, then a few months into his role as executive director of GPEB's compliance division,[1] and Ross Alderson, who had just been or was about to be appointed director of anti–money laundering and operational analysis for BCLC,[2] began to plan a meeting of those with a connection to the issue of money laundering in the gaming industry, including law enforcement, FINTRAC, government officials, gaming service providers, and private sector financial institutions.[3] The workshop took place on June 4, 2015.[4]

The goals of the gathering were described as being to "identify strength[s] and weaknesses of the current [anti–money laundering] strategy and framework for gaming facilities, increase awareness, and identify and develop possible options and approaches for enhancing [anti-money laundering] policies, procedures, and practices."[5]

The purposes of the workshop were also tied to GPEB's 2011 Anti–Money Laundering Strategy.[6] A briefing document prepared by GPEB for the minister responsible for gaming, Michael de Jong, a month before the workshop identified it as part of a process for developing recommendations for the minister. The document described the purpose of the workshop, in part, as follows:[7]

> The findings of the September 2014 Malysh study and the information obtained from the workshop process will be used by … GPEB to complete Phase 3 of the [anti–money laundering] Strategy. GPEB will develop recommendations which will be brought forward for the Minister's consideration in order to assist government's strategy in reducing risk concerning money laundering in casinos. This will include collaborative strategies intended to heighten awareness, increase compliance where necessary, reduce risk to the industry and respond to public concern. The recommendations will be provided to the Minister's office by fall 2015.

Evidence of the discussions that took place at, and outcomes of, this workshop present a revealing snapshot in time of the perspectives held by these stakeholders on money laundering in British Columbia's gaming industry at this juncture. The workshop took place at a critical point in the evolution of the industry's response to the risk of money laundering. Only a few weeks later, BCLC, GPEB, and the provincial

1 Evidence of L. Meilleur, Transcript, February 10, 2021, p 31.

2 Evidence of R. Alderson, Transcript, September 10, 2021, p 17.

3 Exhibit 587, Affidavit #1 of Joseph Emile Leonard Meilleur, made on February 9, 2021 [Meilleur #1], paras 74, 76 and exhibits BB, EE.

4 Evidence of R. Alderson, Transcript, September 10, 2021, p 82.

5 Exhibit 587, Meilleur #1, exhibit CC.

6 Exhibit 522, Affidavit #1 of Brad Desmarais, affirmed on January 28, 2021 [Desmarais #1], exhibit 18.

7 Exhibit 587, Meilleur #1, exhibit CC.

government would learn that the RCMP believed that they had confirmed a connection between suspicious transactions in casinos and organized crime. Accordingly, the views expressed at the workshop are indicative of the attitudes held within the industry around the time that law enforcement was actively investigating and, in its view, confirming that the province's casinos were, in fact, accepting funds originating from criminal activity.

Despite this reality, documents produced following the meeting suggest that there was generally a level of satisfaction with the anti–money laundering measures in place in the industry at that time. A concept paper titled "Cash in Gaming Facilities" produced by a consultant who had been retained to assist in organizing the workshop,[8] referred to the existing regime in the following favourable terms:[9]

> The government has a robust regime in place related to proceeds of crime (money laundering) for B.C. gaming facilities. Concerted action has been taken over the past five years to enhance the [anti–money laundering] policies and practices in B.C. gaming facilities with a focus on reducing cash transactions.

Mr. Meilleur confirmed in his oral evidence that the concept paper accurately reflected what was discussed in the workshop.[10] He agreed with this assessment of the gaming industry's anti–money laundering regime at the time of the workshop.[11]

Despite this apparent satisfaction with the state of the industry's efforts to combat money laundering at this time, the concept paper suggested that concern about year-over-year growth in suspicious transactions was expressed during the workshop.[12] The source of this concern, however, does not seem to have been a settled belief that this growth in suspicious transaction reports represented increased money laundering or acceptance of the proceeds of crime in the province's casinos but rather, at least to some degree, the adverse media and political attention attracted by the rise in suspicious transactions. The concept paper explained:[13]

> Despite these efforts, over this same period, the number of suspicious transaction reports (STRs) made with regard to suspected money laundering incidents has increased significantly year over year. The increase in STRs has sparked repeated media attention and interest from government's opposition with reports suggesting that this is evidence that criminal activity is occurring in B.C. gaming facilities.

8 Evidence of L. Meilleur, Transcript, February 12, 2021, p 63; Ibid, Transcript, March 10, 2021, pp 150–52; Exhibit 587, Meilleur #1, para 43 and exhibits K, BB.

9 Exhibit 587, Meilleur #1, exhibits K.

10 Evidence of L. Meilleur, Transcript, March 10, 2021, pp 151–52.

11 Evidence of L. Meilleur, Transcript, February 12, 2021, pp 63–64.

12 Exhibit 587, Meilleur #1, exhibit K, p 1.

13 Ibid.

Accordingly, it does not appear that there was a consensus among the workshop participants that money laundering or acceptance of proceeds of crime was a real issue for the province's gaming industry at the time. However, there does seem to have been recognition of a need to take action to develop "a better understanding of the extent and nature of money laundering in gaming facilities" and to further strengthen efforts to prevent money laundering.[14]

Strategies for achieving these objectives – and, it would seem, for combatting negative perceptions of the gaming industry – were also generated at the workshop.[15] These were summarized in a GPEB document prepared for John Mazure, then the general manager of GPEB, on June 25, 2015, as follows:[16]

1. Enhanced customer due diligence focused on "knowing your customer" to address concerns over the source of the wealth of casino patrons and the source of the funds used in transactions at casinos, including the introduction of a "source of funds questionnaire" which "may reduce the need for filing of a Suspicious Transaction Reports for that individual to avoid over-reporting."

2. Preparation, by the British Columbia Lottery Corporation, of a "business case" for enhancing non-cash alternatives such as credit and unlimited convenience cheques.

3. Development of a public education and information strategy that would counter negative perception about the increasing numbers of suspicious cash transactions reported.

4. Development of a coordinated audit, compliance, intelligence, and enforcement capacity.

5. Increasing the working relationship and sharing of tools between the Gaming Policy and Enforcement Branch Compliance Division and British Columbia Lottery Corporation Corporate Security in the area of anti–money laundering.

6. Continue ongoing dialogue with RCMP senior management about the possibility of shared intelligence responsibility and work on a tactical intelligence report on gaming in British Columbia.

7. Assessment of need for interdiction team as a final stage of process.

8. Assessment of need for an internal AML oversight committee.

14 Ibid.

15 Ibid, exhibits K, GG.

16 Ibid, para 79 and exhibit GG, pp 2–4.

A shorter, but not inconsistent, list of proposed strategies was included in the concept paper prepared by the consultant. These included:[17]

1. A Ministerial Directive to the British Columbia Lottery Corporation (BCLC) requiring development and implementation of additional standards in its enhanced Customer Due Diligence (CDD) program to address money laundering. These would be constructed around financial industry standards that include Know Your Customer (KYC) policy and practices with a particular focus on source of funds assessment. A Ministerial Directive will align with the current Ministerial Mandate Letter to BCLC and will ossify the government's role in ensuring integrity in gaming.

2. Development and implementation of additional cash alternatives to further transition from cash-based transactions to electronic and other forms of transactions and instruments.

3. Enhanced coordinated and collaborative intelligence, analysis, audit, compliance, and enforcement between BCLC and GPEB and other stakeholders.

4. Public information and education strategy.

These proposed strategies include some actions that had the potential to have an impact on the volume of suspicious cash accepted by British Columbia gaming facilities. However, the extent to which they seem focused on combatting *perceptions* of money laundering in casinos and on casino patrons themselves, rather than the cash they were using, detracts from their likely success. It is significant that both articulations of the strategies discussed at the workshop contemplate public information and education campaigns, with the first specifying that such a campaign would be aimed at countering negative perceptions about increases in the number of suspicious transactions reported. Implicit in the identification of this strategy is the belief that these negative perceptions were *incorrect* and that public concern about rising suspicious transactions was unjustified. The solution to negative perceptions that were viewed as accurate would be to resolve the problem, not to persuade the public it does not exist.

Similarly, the "source of funds" questionnaire identified in the first articulation of the proposed strategies is presented as a means of reducing the need for suspicious transaction reporting. This indicates an expectation that, rather than confirming the criminal origin of cash used in casino buy-ins, source-of-funds inquiries will reveal that funds used in suspicious transactions are legitimate, justifying acceptance of the funds and obviating the need to report.

While the documents referred to above reflect the general tenor of the discussion and outcomes of the workshop, they do not profess to represent the unanimous views

17 Ibid, exhibit K, p 1.

of all of its participants. Given the diversity of the backgrounds of those involved in the workshop, it is likely that some of the participants may have held very different views, while others may have had little previous exposure to the gaming industry and not held any firm views at all.

An absence of consensus among those who participated in the workshop is reflected in the evidence of attendee Calvin Chrustie, then of the RCMP Federal Serious and Organized Crime unit.[18] In his testimony, Mr. Chrustie recalled leaving the workshop concerned that nothing substantive had been accomplished because of a tendency to highlight possible legitimate explanations for the rise in cash transactions in casinos, including through a presentation by a journalist who had previously delivered two presentations to BCLC staff, which were discussed in Chapter 10.[19] Mr. Chrustie had more information than many of the others in attendance. He was privy to information obtained through an ongoing investigation, discussed below, that was unavailable to others, and through the 2010 probe into cash facilitators conducted by the RCMP Integrated Proceeds of Crime unit discussed in Chapter 10 and Chapter 39. However, he had no greater insight into the magnitude and character of the large cash transactions regularly taking place at Lower Mainland casinos. Others at the workshop may also have been skeptical of some of the views reflected in the concept paper.

Information from the workshop does reveal that there was clearly a general understanding within the industry that there was an elevated risk of money laundering associated with growth in suspicious transactions and that efforts should be made to address this risk. However, it is evident that at least some of the concern associated with this elevated risk was related to public, media, and political perceptions, and predicated on the belief that these perceptions were incorrect. Further, it is evident that the measures proposed to address this issue were aimed as much at persuading the public that there was no cause for concern as they were focused on taking steps to meaningfully reduce the risk of money laundering in British Columbia's gaming industry.

July 2015 E-Pirate Revelations

Notification of and Initial Response Within BCLC

The workshop was soon followed by the first of the two events of the summer of 2015 that led to significant developments in anti–money laundering initiatives within the province's gaming industry. On July 22, 2015, Mr. Alderson, still only a few months into his new role as BCLC's director of anti–money laundering and operational analysis, met with Mr. Chrustie for coffee in response to an invitation from Mr. Chrustie.[20]

18 Evidence of C. Chrustie, Transcript, March 29, 2021, pp 3–4.

19 Ibid, pp 76–85, 203; Exhibit 762, Email between Calvin Chrustie and Len Meilleur et al., re June 4, 2015 Anti–Money Laundering Workshop (June 6, 2015).

20 Evidence of R. Alderson, Transcript, September 9, 2021, p 42.

At that meeting, Mr. Chrustie advised Mr. Alderson that an investigation, which would come to be known as E-Pirate and which the Federal Serious and Organized Crime unit had undertaken at BCLC's encouragement,[21] had begun to yield results. Specifically, Mr. Chrustie told Mr. Alderson that the investigation had confirmed a direct link between criminal organizations and cash transactions at the River Rock Casino.[22] According to Mr. Alderson, Mr. Chrustie also shared his concern that those providing the cash used in these transactions were linked to transnational organized crime and terrorist financing.[23]

Following this meeting, Mr. Alderson, cognizant of his obligation as a registered gaming worker to report wrongdoing to GPEB, contacted Mr. Meilleur.[24] Mr. Alderson was appropriately cautious in sharing information provided to him by Mr. Chrustie and rather than relaying what he had learned to Mr. Meilleur himself, advised Mr. Meilleur that he was very disturbed by information provided to him by Mr. Chrustie and encouraged Mr. Meilleur to contact Mr. Chrustie directly.[25]

Mr. Alderson's evidence was that Mr. Meilleur phoned him back within half an hour of this initial conversation.[26] Mr. Meilleur told Mr. Alderson that he was also very concerned by what he had learned from Mr. Chrustie[27] and advised Mr. Alderson that he should brief BCLC CEO Jim Lightbody and his other superiors within BCLC on what he had learned. Mr. Meilleur also advised Mr. Alderson that the information provided by Mr. Chrustie would be brought to the attention of the minister responsible for gaming, Mr. de Jong.[28]

Mr. Alderson took Mr. Meilleur's advice. He immediately had Mr. Lightbody, Mr. Desmarais, then BCLC's vice-president of corporate security and compliance, and Susan Dolinski, BCLC's vice-president of social responsibility and communications, removed from a meeting in order to brief them on what he had learned from Mr. Chrustie.[29]

In his evidence, Mr. Lightbody recalled learning, during this briefing from Mr. Alderson, that the RCMP had discovered that a money services business based in Richmond, British Columbia, was using cash obtained through criminal activity to make loans to individuals, including casino patrons.[30]

21 Evidence of B. Desmarais, Transcript, February 1, 2021, p 118; Exhibit 522, Desmarais #1, paras 76–78; Evidence of C. Chrustie, Transcript, March 29, 2021, pp 65–66, 104–5.

22 Evidence of R. Alderson, Transcript, September 9, 2021, pp 42–43; Exhibit 587, Meilleur #1, exhibits II, KK.

23 Evidence of R. Alderson, Transcript, September 9, 2021, pp 42–43; Exhibit 587, Meilleur #1, exhibits II, KK; Evidence of B. Desmarais, Transcript, February 1, 2021, p 122.

24 Evidence of R. Alderson, Transcript, September 9, 2021, p 43 and Transcript, September 10, 2021, pp 150–51; Evidence of L. Meilleur, Transcript, February 12, 2021, p 59; Exhibit 587, Meilleur #1, para 81 and exhibits II, KK.

25 Evidence of R. Alderson, Transcript, September 9, 2021, p 43 and Transcript, September 10, 2021, pp 150–51; Exhibit 587, Meilleur #1, para 81 and exhibits II, KK.

26 Evidence of R. Alderson, Transcript, September 9, 2021, pp 43–44.

27 Ibid; Evidence of R. Alderson, Transcript, September 10, 2021, p 28.

28 Evidence of R. Alderson, Transcript, September 9, 2021, pp 43–44.

29 Ibid, p 44; Exhibit 587, Meilleur #1, exhibits II, KK.

30 Exhibit 505, Affidavit #1 of Jim Lightbody, sworn on January 25, 2021 [Lightbody #1], para 113; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 26–27, 34 and Transcript, January 29, 2021, p 49.

Mr. Lightbody recalled being shocked by this information.[31] Prior to this time, he had been aware that there was a risk that cash transactions could be conducted using the proceeds of crime or that such transactions could be linked to money laundering.[32] According to Mr. Lightbody, however, this was the first time that he was aware that BCLC had been told by law enforcement directly that there was evidence that proceeds of crime were actually being used by to casino patrons.[33] Mr. Lightbody described this as a pivotal moment for BCLC, and one in which it became immediately apparent to him that there was a need for greater efforts not only to identify customers and the sources of their wealth, but also to understand the sources of cash being used in transactions conducted in the province's casinos.[34]

Notification and Initial Response Within GPEB

As Mr. Alderson was briefing his superiors within BCLC, Mr. Meilleur was making similar efforts to notify those senior to him within the GPEB and government.

Following the initial phone call from Mr. Alderson, Mr. Meilleur took Mr. Alderson's advice and contacted Mr. Chrustie immediately.[35] Mr. Chrustie advised Mr. Meilleur that BCLC had approached the Federal Serious and Organized Crime unit with concerns about a specific individual, which had commenced an investigation in response to this complaint.[36] Mr. Chrustie advised that the investigation had evolved into a much larger endeavour than was initially expected[37] and also expressed concern to Mr. Meilleur about the confidentiality of the investigation and asked for Mr. Meilleur's assistance in limiting dissemination of the information that Mr. Chrustie provided.[38] Mr. Meilleur advised Mr. Chrustie that he would need to brief his superiors about what he had learned, but assured him that he would refrain from sharing specifics of the investigation.[39]

Mr. Meilleur immediately proceeded to brief Mr. Mazure about his phone call with Mr. Chrustie, while honouring his commitment not to share details of the investigation.[40] Mr. Meilleur recalled that Mr. Mazure was concerned about what they had learned but pleased that it appeared that law enforcement had begun to take action on suspicious transactions following a long period in which police engagement on this issue appeared minimal.[41]

31 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 35–36.

32 Ibid, p 37.

33 Exhibit 505, Lightbody #1, para 113; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 26, 34.

34 Exhibit 505, Lightbody #1, para 113; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 26–27, 34.

35 Evidence of L. Meilleur, Transcript, February 12, 2021, pp 59–60; Exhibit 587, Meilleur #1, para 83.

36 Ibid.

37 Evidence of L. Meilleur, Transcript, February 12, 2021, pp 59–60.

38 Ibid.

39 Ibid.

40 Evidence of L. Meilleur, Transcript, February 12, 2021, p 60; Evidence of J. Mazure, Transcript, February 5, 2021, pp 111–12; Exhibit 587, Meilleur #1, para 85.

41 Evidence of L. Meilleur, Transcript, February 12, 2021, p 61.

Mr. Meilleur recalled that Mr. Mazure advised him that he subsequently briefed the associate deputy minister, Cheryl Wenezenki-Yolland.[42] Mr. Meilleur also understood that Mr. de Jong was soon briefed on the investigation.[43]

While Mr. Mazure's evidence was generally consistent with Mr. Meilleur's, it appears that Mr. Meilleur was mistaken about Ms. Wenezenki-Yolland having been briefed by Mr. Mazure. Mr. Mazure's evidence was that he briefed the deputy minister, Peter Milburn, about the investigation and that Mr. Milburn advised Mr. Mazure that he would brief Mr. de Jong the same day.[44] This is consistent with Ms. Wenezenki-Yolland's evidence that she was on vacation at this time, that she did not learn of the investigation until later, and that it was likely Mr. Milburn who was briefed by Mr. Mazure.[45]

Accordingly, it appears that, while the minister was briefed on the investigation shortly after GPEB learned of it, it was Mr. Milburn that was the conduit of that information, not Ms. Wenezenki-Yolland. Ms. Wenezenki-Yolland did not learn of the investigation until late August 2015, as will be discussed below.

Mr. de Jong testified that he recalled being briefed on the investigation, but told me that it was his practice during his tenure as finance minister to receive very limited information about matters over which he had no influence – such as police investigations.[46] As such, Mr. de Jong suggested that the briefing was likely not very long or detailed.[47] Based on Mr. de Jong's practices as finance minister and Mr. Meilleur's evidence of the limited details he shared with Mr. Mazure, it seems likely that, while Mr. de Jong was advised of the investigation shortly after GPEB learned of it, he would have been provided with very little information beyond the fact of its existence.

Absence of Notification and Involvement of Service Providers

While the information provided to Mr. Alderson was being shared between BCLC and GPEB and was rapidly ascending through the ranks of each organization and government, neither Mr. Alderson nor Mr. Meilleur took steps to notify service providers of the investigation. In their evidence, both cited requests from the RCMP that they not disseminate the information they had been provided as their rationale for not doing so.[48] In the days following Mr. Alderson's meeting with Mr. Chrustie, BCLC officials, including Mr. Lightbody, Mr. Desmarais, and Mr. Alderson, and senior GPEB officials including Mr. Mazure and Mr. Meilleur communicated with the RCMP regarding how BCLC and GPEB could support the Federal Serious and Organized Crime

42 Ibid, pp 61–62; Exhibit 587, Meilleur #1, para 84.

43 Exhibit 587, Meilleur #1, para 84; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 61–62.

44 Exhibit 541, Affidavit #1 of John Mazure, sworn on February 4, 2021 [Mazure #1], paras 138–39.

45 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 47.

46 Evidence of M. de Jong, Transcript, April 23, 2021, pp 69–70.

47 Ibid.

48 Evidence of L. Meilleur, Transcript, February 12, 2021, p 63; Evidence of R. Alderson, Transcript, September 10, 2021, p 10.

unit as the investigation progressed.[49] Service providers were not included in these communications nor does it appear that they were being asked to take any steps to assist in or respond to the investigation at this early stage. Mr. Doyle gave evidence that while Great Canadian Gaming Corporation (Great Canadian) had a general awareness that an investigation was underway at this time, it was initially provided with very little information about the investigation and had no knowledge of its targets.[50] I do not suggest it was inappropriate for law enforcement to keep the circle of knowledge regarding this ongoing investigation small, but simply point out that, at this early stage, the degree of detail regarding the precise nature of the threat was not shared equally with all industry actors.

Reaction to Workshop and E-Pirate Revelations

Before discussing the second event that led to substantial change in perspectives on large and suspicious cash transactions in the gaming industry, I will address some of the actions taken in response to the June 4 workshop and the disclosure of the E-Pirate investigation discussed above. These include the beginning of an exchange of correspondence between Mr. Mazure and Mr. Lightbody that would continue for nearly two years, and the acceleration of BCLC's nascent "cash conditions" program, the origins of which were discussed in Chapter 10.

Mr. Mazure's Letter of August 7, 2015, and Mr. Lightbody's Response

On August 7, 2015, approximately two months after the June 4 workshop and a little more than two weeks following Mr. Chrustie's meeting with Mr. Alderson regarding the E-Pirate investigation, Mr. Mazure wrote a letter to Mr. Lightbody.[51] In his evidence, Mr. Mazure explained that this letter was written in response to the June 4 workshop, shortly after he had learned of the investigation.[52] He testified that it was intended to send a message that BCLC needed to take further action to address the prevalence of suspicious cash in British Columbia casinos.[53]

In his letter, Mr. Mazure requested that BCLC pursue the following four actions, which are similar to the four strategies identified in the "Cash in Gaming Facilities" concept paper prepared following the workshop:[54]

1. Develop and implement additional Customer Due Diligence (CDD) policies and practices constructed around financial industry standards

49 Evidence of L. Meilleur, Transcript, February 12, 2021, pp 65–67; Exhibit 587, Meilleur #1, exhibit KK; Exhibit 505, Lightbody #1, para 113; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 26–27.

50 Evidence of T. Doyle, Transcript, February 9, 2021, pp 155–56.

51 Exhibit 505, Lightbody #1, para 180, exhibit 48; Exhibit 541, Mazure #1, para 156; Evidence of J. Mazure, Transcript, February 5, 2021, pp 124–26, 198.

52 Evidence of J. Mazure, Transcript, February 5, 2021, pp 125–26, 198.

53 Ibid; Exhibit 541, Mazure #1, paras 156–58.

54 Exhibit 505, Lightbody #1, exhibit 48; Exhibit 587, Meilleur #1, exhibit K.

and robust Know Your Customer (KYC) requirements, with a focus on identifying source of wealth and funds as integral components to client risk assessment. This assessment should be based upon suspicious currency transaction occurrences.

2. Develop and implement additional cash alternatives, focusing on furthering the transition from cash-based to electronic and other forms of transactions, and instruments, and exploring new ways to promote existing and new cash alternatives. These alternatives should form part of a broader strategy for increasing the use of cash alternatives in gaming facilities, including implementing a performance measurement framework and an evaluation plan to determine service provider participation.

3. Work with GPEB to develop processes and approaches to clarify roles and responsibilities around [anti–money laundering] intelligence, analysis, audit and compliance activities. This includes considering information sharing and access to systems that support the [anti–money laundering] strategy's elements.

4. Work with GPEB and other stakeholders such as FINTRAC to develop a BCLC public information and education strategy and action plan for government's review and approval. The plan should include coordinated messaging about anti–money laundering activities in gaming facilities, and outline the requirements, roles and responsibilities for identification, reporting, investigation and enforcement.

Mr. Mazure concluded the letter by recommending that BCLC staff "consult and review with GPEB staff on developing approaches and specific actions to implement" the recommended activities.[55]

Mr. Mazure's evidence was that he chose the wording of this letter carefully because he was aware that, as general manager of GPEB, he did not have the authority to issue directions to BCLC without the approval of the responsible minister.[56] This provides context for Mr. Mazure's decision to use language such as "BCLC *is asked* to pursue the following activities" [emphasis added] and "I *recommend* that BCLC staff …" [emphasis added]. Mr. Mazure's letter of August 7, 2015, was not in the nature of a direction to BCLC, as Mr. Mazure had no legal authority to issue such a direction. As I discuss later in this chapter, however, this does not mean that BCLC was free to simply ignore Mr. Mazure's letter and the correspondence that followed.

Mr. Lightbody's initial response to Mr. Mazure's letter came in the form of a letter addressed to Mr. de Jong, dated August 24, 2015.[57]

55 Exhibit 505, Lightbody #1, exhibit 48.

56 Evidence of J. Mazure, Transcript, February 5, 2021, p 207; Exhibit 541, Mazure #1, para 159.

57 Exhibit 505, Lightbody #1, exhibit 49.

In this letter, Mr. Lightbody focused on the first request made in Mr. Mazure's letter: the identification of casino patrons' source of wealth and source of funds. Mr. Lightbody did not indicate whether BCLC would implement the measures sought by Mr. Mazure. He instead commented on the challenges associated with identification of the source of funds used in transactions in casinos as follows:

> While it is generally easier to identify an individual's source of wealth, identifying the actual source of funds per transaction is far more problematic, especially when the funds are presented as cash. It is financial industry standard to ask a customer to declare the source of funds for all transactions (including cash) over CAD $10,000.00 however little follow up investigation is then conducted. It is also common practice in the financial industry to terminate a business relationship with a customer after two or three suspicious transaction reports.

In this letter, Mr. Lightbody went on to express skepticism that any single agency in British Columbia was capable of adequately identifying the source of funds used in casino transactions:

> BCLC believe that currently no one agency in British Columbia is equipped to identify the actual source of funds. To do so would require in most cases, law enforcement intervention. Currently BCLC and GPEB lack the legislative authority, and law enforcement lack the available budget, resources, and visibility.

The letter concluded with two recommendations. One was that government support cash alternative initiatives, including facilitation of "credit to Chinese high limit players," without which, according to Mr. Lightbody, "BC faces a potential substantial drop in gaming revenue." The other recommendation made in Mr. Lightbody's letter was the creation of "a dedicated law enforcement gaming unit … established by the provincial government." Mr. Lightbody elaborated on the focus and composition of this proposed unit as follows in his letter:

> The primary focus of this unit would be on identifying and eliminating proceeds of crime entering into BC gaming facilities, as well as identifying and preventing all illegal or "underground" gambling in BC, including "grey market" or illegal internet gambling.
>
> The Gaming unit ideally, would contain experts in Gaming within BC, Proceeds of Crime, Money Laundering and Terrorist Financing as well as personnel with experience and designated authority to conduct surveillance, execute search warrants, property seizures, and forfeiture, and an understanding of Chinese culture and associated languages.

There was some dispute among witnesses as to whether this letter represented resistance or "pushback" against the measures requested by Mr. Mazure, in particular

the request that BCLC implement additional measures to identify the source of funds used in suspicious transactions.[58]

An examination of the actions taken by BCLC prior to and following this correspondence, as well as the communication between BCLC, government, and GPEB in subsequent years, shed some light on this issue.

I note that Mr. de Jong, to whom Mr. Lightbody's letter was addressed, did not read this letter as pushing back against Mr. Mazure's requests. Mr. de Jong instead understood this letter to be an indication of BCLC's view that greater law enforcement engagement was necessary to resolve the issues identified in Mr. Mazure's letter.[59]

BCLC "Cash Conditions" Program

Despite Mr. Lightbody's apparent reservations about BCLC's ability to unilaterally take meaningful action to address suspicious transactions in the province's casinos through source-of-funds inquiries, BCLC had begun to take some action to inquire into the source of funds used in the most suspicious transactions and to reduce those transactions. These efforts were accelerated following the June 4 workshop and, in particular, following Mr. Alderson's meeting with Mr. Chrustie on July 22.

As discussed in Chapter 10, in 2014, BCLC had begun placing a small number of its most prolific VIP players on conditions that limited their ability to conduct transactions in cash at the province's casinos. By April 2015, two such players had been placed on conditions that prohibited them from buying-in with cash unless they could provide proof of its source.[60]

While these measures seem to have been *ad hoc* solutions to address specific challenges arising from the activity of these two players, BCLC began to expand and formalize these efforts in the spring of 2015, prior to the June 4 workshop and Mr. Alderson's meeting with Mr. Chrustie.[61] Mr. Desmarais, who was BCLC's vice-president of corporate security and compliance until September 2015, when he moved into a different role, was initially the BCLC executive with oversight of the development of this program. Mr. Desmarais connected the development of the formal "cash conditions" program to a shift in BCLC's risk tolerance:[62]

58 Evidence of M. de Jong, Transcript, April 23, 2021, p 159–62; Evidence of C. Wenezenki-Yolland, Transcript, April 27, pp 57–61, 75, 78, 102, 124–25; Exhibit 922, Affidavit #1 of Cheryl Wenezenki-Yolland, sworn on April 8, 2021 [Wenezenki-Yolland #1], para 132.

59 Evidence of M. de Jong, Transcript, April 23, 2021, pp 161–62.

60 Exhibit 148, Affidavit #1 of Daryl Tottenham, sworn on October 30, 2020 [Tottenham #1], paras 79, 83; Exhibit 522, Desmarais #1, para 39 and exhibit 12; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 79–80, 117–18, 150–51; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 85–86.

61 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 37–38 and Transcript, January 29, 2021, p 117; Evidence of D. Tottenham, Transcript, November 4, 2020, p 117; Evidence of M. Hiller, Transcript, November 9, 2020, pp 126–27; Evidence of B. Desmarais, Transcript, February 2, 2021, p 106.

62 Evidence of B. Desmarais, Transcript, February 2, 2021, p 31.

> So as we started to move forward, particularly in 2015, understanding that it was going to be really difficult to figure out … what money was coming from where and … how we were going to deal with it, the best course of action would be to lower our risk tolerance around cash, particularly cash coming in from cash facilitators and ultimately that included [money services businesses], at the same time over the preceding year or so educating players in the different ways of consuming our products using other noncash means.

Practically, the formalization of this program and its advancement from a bespoke solution to challenges posed by two prolific players began with the creation of a document titled "Protocol for Education, Warning and Sanctioning Players" dated April 16, 2015.[63] This protocol identified a number of actions that could be taken in response to patron behaviour, activity, or conduct that:[64]

1. is considered a risk to his or her safety or the safety of others;
2. is considered unacceptable or suspicious in nature; and/or
3. is inconsistent with anti–money laundering strategies.

In such cases, and depending on circumstances including the severity of the patron's behaviour and the patron's history, the protocol indicated that the following actions could be taken:[65]

1. Service Provider Session with Patron to Educate;
2. Service Provider Session with Patron to Warn;
3. BCLC Investigator Interview of Patron to Educate;
4. BCLC Investigator Interview of Patron to Warn;
5. Immediate Barring from Gambling Pending an Interview by a BCLC Investigator;
6. BCLC sanctions that could possibly be imposed:
    - Not permitted to play with un-sourced chips;
    - Not permitted to play with un-sourced funds;
    - Requirement to open and utilize a Patron Gaming Fund account.
7. BCLC Provincial Barring up to five (5) years.

63 Evidence of S. Beeksma, Transcript, October 26, 2020, p 151; Exhibit 78, Affidavit #1 of Steve Beeksma, affirmed on October 22, 2020 [Beeksma #1], exhibit O; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 185–87; Evidence of B. Desmarais, Transcript, February 2, 2021, p 106.

64 Exhibit 78, Beeksma #1, exhibit O, p 2.

65 Ibid, pp 3–4.

While the manner in which these actions are identified suggests that interviews conducted by BCLC investigators were intended to provide information to patrons ("education" or "warnings"), the protocol goes on to make clear that one of the objectives of an interview conducted by an investigator may be to determine the source of funds used by the patron.[66]

Impact of E-Pirate Revelations on Development of Cash Conditions Program

While this protocol was in place prior to Mr. Alderson's meeting with Mr. Chrustie, the information obtained by Mr. Alderson in that meeting impacted the program in at least two ways. First, it provided BCLC with a list of high-risk patrons to whom the protocol could be applied, and second, at the direction of Mr. Desmarais's successor Mr. Kroeker, it inspired the strengthening of the protocol and acceleration of its application.[67]

In August 2015, following receipt of the information provided by Mr. Chrustie to Mr. Alderson on July 22, 2015, BCLC identified 10 patrons connected to the investigation and placed them on conditions.[68] The patrons subjected to conditions at this time included some of the top players in the province, based on the size of their buy-ins and the frequency of their play.[69] Many of these players had a record of suspicious buy-ins, some dating back to 2012.[70]

The precise conditions placed on these patrons were set out in an email from Mr. Alderson to service providers alerting them to the identities of these patrons.[71] The conditions as described by Mr. Alderson were as follows:[72]

1. Un-sourced Cash and Chips

    - If any of the players on the list decides to buy-in using cash (any amount), this buy-in must be accompanied by a withdrawal slip from an accredited financial institution showing the same date as the attempted buy-in.

    - If any of the players on the list decides to buy-in with gaming chips, the site must be able to show that the chips were the result

66 Ibid, pp 7–8; Exhibit 522, Desmarais #1, exhibit 22.

67 Evidence of D. Tottenham, Transcript, November 10, 2020, pp 144–46; Evidence of R. Kroeker, Transcript, January 26, 2021, pp 97–98, 161, 183–84; Exhibit 490, Affidavit #1 of Robert Kroeker, made on January 15, 2021 [Kroeker #1], para 100; Evidence of B. Desmarais, Transcript, February 2, 2021, p 162.

68 Evidence of D. Tottenham, Transcript, November 4, 2020, p 177; Evidence of R. Alderson, Transcript, September 9, 2021, pp 132–33; Evidence of S. Beeksma, Transcript, October 26, 2020, p 80; Exhibit 148, Tottenham #1, exhibit 45.

69 Exhibit 78, Beeksma #1, para 78; Evidence of R. Alderson, Transcript, September 9, 2021, pp 132–33.

70 Evidence of D. Tottenham, Transcript, November 4, 2020, p 181 and Transcript, November 10, 2020, pp 23–31.

71 Exhibit 148, Tottenham #1, exhibit 45.

72 Ibid.

of a previous verified win, otherwise they will not be accepted at this time until BCLC has conducted a player interview.

- No player on this list can accept any cash or chips (either sourced or un-sourced) from any other persons at any time. E.g., no "chip passing" of any kind

Please note the above applies to all transactions, regardless of amount.

2. Bank Drafts

    - If any of the players on the list make a deposit into their [patron gaming fund (PGF)] Account using a bank draft, the following restrictions apply:

        - Bank draft must be from an accredited financial institution
        - The player must be able to show that the bank draft is derived from their own bank account, and must be made payable to the Casino accepting the deposit

A little more than a month later, cash conditions were imposed on 36 patrons identified as having connections to the investigation.[73] These patrons were identified to service providers through a letter from Mr. Alderson dated September 11, 2015.[74] The cash conditions program and the number of patrons subject to it would continue to grow in the years that followed.[75] Its continued evolution and impact will be addressed later in this chapter.

Robert Kroeker's Arrival and Development of Cash Conditions Program

Days before this expansion of the number of patrons subject to cash conditions, Mr. Desmarais, who had accepted a new role within BCLC in June 2015, was replaced as BCLC's vice-president of corporate security and compliance by Mr. Kroeker.[76] While Mr. Kroeker did not initiate the cash conditions program, he became responsible for it and quickly came to exert significant influence over its development.

Mr. Kroeker, who joined BCLC after leaving the role of vice-president of compliance and legal with Great Canadian,[77] learned of the E-Pirate investigation in a briefing with Mr. Alderson, discussed in more detail below, shortly after his arrival at BCLC.[78]

73 Exhibit 148, Tottenham #1, paras 87–88, 133 and exhibit 8; Exhibit 490, Kroeker #1, paras 98–99; Exhibit 522, Desmarais #1, para 49 and exhibit 25; Evidence of R. Alderson, Transcript, September 9, 2021, p 133.

74 Exhibit 148, Tottenham #1, paras 87–88 and 133 and exhibit 8; Exhibit 490, Kroeker #1, para 99; Exhibit 522, Desmarais #1, para 49 and exhibit 25; Evidence of D. Tottenham, Transcript, November 4, 2020, p 19.

75 Evidence of D. Tottenham, Transcript, November 4, 2020, p 192; Exhibit 490, Kroeker #1, para 92; Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2020 [Cuglietta #1], exhibit A.

76 Exhibit 490, Kroeker #1, paras 8, 86; Exhibit 522, Desmarais #1, paras 16, 18–19.

77 Exhibit 490, Kroeker #1, para 32.

78 Ibid, para 98; Exhibit 493, Corporate Security & Compliance AML Document (September 8, 2015) [Corporate Security].

Mr. Kroeker gave evidence that he supported the measures being taken by BCLC, including the banning and conditioning of players, at the time he joined the organization.[79] Mr. Kroeker's evidence, however, was that he believed this program to be an insufficient response to the information BCLC had been provided by Mr. Chrustie, and that, from the time of his arrival, he advocated for an expansion of the program.[80] Mr. Kroeker believed that BCLC should expand its focus beyond the players identified as connected to the investigation and begin to examine *any* player engaged in cash transactions where there was a concern over the source of the player's funds.[81] If such a player could not explain the source of funds they were using to gamble, Mr. Kroeker believed they should be barred or placed on conditions.[82]

Following Mr. Kroeker's arrival, a supplementary protocol was developed that provided more detailed direction and established a more stringent regime than that set up in April 2015.[83] The supplementary protocol also suggests a greater focus on suspicious transactions and identification of the source of funds used in such transactions.[84] This is evident from the list of "additional suspicious indicators warranting conditions and/or interview" found on page 2 of the document, which includes:[85]

- Patron buys in predominately in cash particularly using small bills
- Patron's occupation is not consistent with buy in[s], either the amount or type of buy in
- Patron refuses to provide information regarding occupation or employer
- Patron receives cash deliveries or cash exchanges
- Patron buys chips using cash and leaves the facility with no or little play
- Patron attends Casino with large amount of un-sourced chips
- Patron is involved in chip passing consistent with a commercial nature
- BCLC receive[s] information from an outside agency, including Law Enforcement pertaining to suspicious behavior involving the patron

The protocol goes on to specify that, in these instances, the patron must be interviewed by a BCLC investigator.[86]

79 Exhibit 490, Kroeker #1, para 100; Evidence of R. Kroeker, Transcript, January 26, 2021, pp 97–98, 161.

80 Exhibit 490, Kroeker #1, para 100; Evidence of R. Kroeker, Transcript, January 26, 2021, pp 97–98, 161.

81 Exhibit 490, Kroeker #1, para 100; Evidence of R. Kroeker, Transcript, January 26, 2021, pp 97–98.

82 Exhibit 490, Kroeker #1, para 100.

83 Evidence of R. Alderson, Transcript, September 10, 2021, pp 62–65, 73; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 152–53; Exhibit 86, BCLC Anti Money Laundering (AML) Protocol for Conditions and Interviews [BCLC Protocols].

84 Evidence of R. Alderson, Transcript, September 10, 2021, pp 63–65.

85 Exhibit 86, BCLC Protocols, p 2.

86 Ibid.

September 8 Briefing Document

As indicated above, Mr. Kroeker received a briefing from Mr. Alderson shortly after his arrival at BCLC.[87] As part of this briefing, Mr. Alderson provided Mr. Kroeker with a seven-page document that included information about the history of the BCLC anti–money laundering unit and illegal gaming sites. It also described the events leading up to and following Mr. Alderson's meeting with Mr. Chrustie, in which BCLC was advised of links between cash used in buy-ins by casino patrons and "transnational drug trafficking."[88]

The briefing document also included a list of recommendations made by Mr. Alderson.[89] While the evidence does not reveal the extent to which these recommendations were discussed during the briefing or Mr. Kroeker's reaction or actions he may have taken in response, they do offer some insight into the types of anti–money laundering measures identified within BCLC after learning of the information obtained through the E-Pirate investigation. These recommendations, as articulated in the briefing document, included:

- Having service providers ask and document players for Source of Funds for all cash deposits at an agreed upon threshold. (I [Mr. Alderson] recommend $20K although that can be determined by the denomination submitted.)
- Banning all players from using un-sourced cash that have confirmed links to criminality.
- An acceptance by BCLC that underground banking involving money and Chinese Nationals is suspicious and is likely not legal regardless of the original source of funds.
- BCLC Investigations conducting more interviews with patrons involved in suspicious transaction reports based on a more aggressive criteria. Eg: number of [suspicious transaction reports], actual [suspicious transaction report] circumstances.
- Terminating business relationships when it is warranted.
- A broader understanding at Executive Level of transnational money laundering.
- Continue to reinforce to Government that an agency equipped to investigate criminal activity in Gaming is required. That includes one with the ability to track, investigate, and prosecute on proceeds of crime.

87 Exhibit 490, Kroeker #1, paras 97–98; Exhibit 493, Corporate Security.

88 Exhibit 493, Corporate Security.

89 Ibid, pp 6–8.

As discussed above and below, several of these measures – or versions thereof – were implemented at this time or in the months and years that followed; others were not.

One measure that was addressed at length in the Commission's hearings was the first of those listed above, requiring declarations (and in other formulations, proof) of the source of funds used in cash transactions with a value exceeding an identified threshold. The inclusion of this measure in this briefing document is one of the earliest instances of a proposal of this type of anti–money laundering strategy emanating from within BCLC.

Mr. Alderson's evidence was that this strategy was not implemented following this briefing until January 2018, when a similar measure was implemented,[90] though one requiring proof, rather than just a declaration, of the source of funds. Mr. Alderson did not know what Mr. Kroeker did with this recommendation and was unable to explain why this measure was not implemented in the nearly three years following his briefing of Mr. Kroeker. Mr. Alderson told me that he did not believe he had the authority to unilaterally implement this measure in the position he held at the time.[91]

July 2015 GPEB Spreadsheet

The second event of the summer of 2015 that led to significant action related to anti–money laundering efforts within the province's gaming industry was the compilation of a spreadsheet by Robert Barber and Ken Ackles, two GPEB investigators then assigned to the River Rock Casino.[92] The spreadsheet produced by Mr. Ackles and Mr. Barber listed large cash transactions of $50,000 or more (along with two transactions of just below $50,000) that took place at Lower Mainland casinos during July 2015.[93] In addition to the date, location, and value of the transaction, and the identity of the casino patron(s) involved, the spreadsheet also identified the total value of $20 bills used in each transaction, a synopsis of the events associated with each transaction, and additional details including associated individuals and vehicles.[94] What seemed to cause those presented with the spreadsheet to take note was that it included over $20 million in cash transactions in the month of July alone, including $14 million in $20 bills.[95]

Mr. Barber testified that, prior to this time, he typically prepared reports on transactions of the sort included in the spreadsheet but focused only on single

90 This measure was introduced in response to recommendations made in a review conducted by Dr. Peter German, which I discuss in Chapter 12.

91 Evidence of R. Alderson, Transcript, September 9, 2021, pp 39–41.

92 Exhibit 144, Affidavit #3 of Ken Ackles, made on October 28, 2020 [Ackles #3], paras 8, 23–24 and exhibit D; Evidence of R. Barber, Transcript, November 3, 2020, pp 3, 21–22; Exhibit 145, Affidavit #1 of Robert Barber, made on October 29, 2020 [Barber #1], paras 12, 92–93 and exhibit F; Evidence of K. Ackles, Transcript, November 2, 2020, pp 40–41.

93 Evidence of R. Barber, Transcript, November 3, 2020, pp 21–22; Evidence of K. Ackles, Transcript, November 2, 2020, pp 44–46; Exhibit 145, Barber #1, para 92 and exhibit F.

94 Exhibit 145, Barber #1, exhibit F.

95 Evidence of R. Barber, Transcript, November 3, 2020, pp 21–22; Evidence of K. Ackles, Transcript, November 2, 2020, p 47; Exhibit 145, Barber #1, para 95; Exhibit 587, Meilleur #1, para 87; Exhibit 922, Wenezenki-Yolland #1, para 108.

transactions.[96] I note, however, that there are a number of examples in the record before me, several of which I describe in Chapter 10, of GPEB "reports of findings" detailing series of related transactions or broad trends in suspicious activity in casinos.[97] In his evidence, Mr. Barber indicated that the decision to compile this spreadsheet arose from frustration over a perceived lack of action resulting from these reports on individual transactions.[98] Similarly, Mr. Ackles indicated that he proposed creating the spreadsheet because he was concerned that reports on individual transactions failed to accurately convey the scale of large cash transactions occurring in casinos, and he believed that a spreadsheet would give the reader a better understanding of the magnitude of cash accepted over a given period of time.[99]

As I discuss below, this spreadsheet had a significant impact on GPEB senior leadership and senior government officials. It is important to note, however, both the absence of new information contained in the document and the modesty of the analysis undertaken in its preparation. In his evidence, Mr. Ackles explained that the spreadsheet contained "exactly the same information" as the reports of individual transactions prepared previously.[100] The "analysis" conducted to create the spreadsheet amounted to little more than reformatting reports, as they had been prepared previously such that they were included in a single document. This is not meant to belittle the efforts of Mr. Ackles and Mr. Barber or diminish the impact of their work. It is obvious that the document they prepared had the effect of spurring action at the time it was produced, and they deserve commendation for having the insight to identify that a different approach was required.

However, the preparation of the spreadsheet required no great expertise or specialized analytical skill. It seems clear that the type of information presented in this spreadsheet had been available to those at senior levels of GPEB for years, including in reports of findings prepared by the investigation division. I can see no reason why an analysis of this sort was required for other senior managers in GPEB to recognize the magnitude and urgency of the problem.

Mr. Meilleur's Reaction to the GPEB Spreadsheet

Mr. Ackles and Mr. Barber presented their spreadsheet to Mr. Meilleur on August 13, 2015.[101] Mr. Meilleur telephoned Mr. Ackles that night and told him that he was shocked by what he had reviewed in the document, to the point that he questioned whether the

96 Exhibit 145, Barber #1, para 94; see also Evidence of K. Ackles, Transcript, November 2, 2020, pp 40–41.

97 Exhibit 181, Affidavit #1 of Larry Vander Graaf, made on November 8, 2020, exhibits G–Q; Exhibit 507, Affidavit #1 of Derek Sturko, made on January 18, 2021, exhibit E.

98 Evidence of R. Barber, Transcript, November 3, 2020, pp 21–22.

99 Exhibit 144, Ackles #3, para 24; Evidence of K. Ackles, Transcript, November 2, 2020, pp 40–42; Exhibit 145, Barber #1, para 94.

100 Evidence of K. Ackles, Transcript, November 2, 2020, p 41; see also Evidence of L. Meilleur, Transcript, February 12, 2021, pp 68–69.

101 Exhibit 587, Meilleur #1, para 86; Evidence of K. Ackles, Transcript, November 2, 2020, p 42; Evidence of R. Barber, Transcript, November 3, 2020, p 153.

spreadsheet contained erroneous information and had been provided to him as a joke.[102] It became clear to Mr. Ackles at this point that he was correct in his hypothesis that the reports on individual incidents prepared prior to the creation of the spreadsheet had not adequately conveyed the scale at which suspicious cash was being accepted by the province's casinos.[103] Mr. Meilleur advised Mr. Ackles that he had provided the spreadsheet to Ms. Wenezenki-Yolland.[104]

Mr. Meilleur described his reaction to the spreadsheet as follows:[105]

> The activity described in those reports was very troubling. This is the first time I had seen this level of detail. The spreadsheet showed vast amounts of cash, $20 bills, being used to buy-in at casinos and what appeared to be cash drop offs. I immediately called both Mr. Ackles and Mr. Barber to ask them to explain where the information contained in the descriptive narrative column of the spreadsheet was sourced from. They advised the information was sourced entirely from the Section 86 reports filed by the gaming services providers and ultimately reported to FINTRAC.

When asked to expand upon what he meant by the "level of detail" in the spreadsheet, Mr. Meilleur acknowledged that the information contained in the spreadsheet had always been available through reports filed by service providers pursuant to section 86 of the *Gaming Control Act*, SBC 2002 c 14. He said, however, that "no one had ever taken the time to compilate it in a spreadsheet like that and present it to someone in [a] leadership role."[106] While Mr. Meilleur may well be correct that this information had not previously been compiled in a *spreadsheet*, I note that under the leadership of Mr. Schalk and Mr. Vander Graaf, the former investigation division did, on several occasions, compile data about trends in suspicious transactions over various time periods in reports of findings. I do not accept that the sort of analysis found in the spreadsheet was entirely new to GPEB or that its senior leadership did not previously have access to information about suspicious cash transactions in a format adequate to allow an understanding of the nature, frequency, and magnitude of such transactions.

As he had indicated to Mr. Ackles, Mr. Meilleur quickly took steps to bring the spreadsheet to the attention of Ms. Wenezenki-Yolland. Mr. Mazure was away from the office at the time and Mr. Meilleur was the acting assistant deputy minister and general manager of GPEB in Mr. Mazure's absence.[107] Ms. Wenezenki-Yolland returned from vacation on August 27, 2015, and was scheduled to receive a briefing from Mr. Meilleur that day.[108] Typically, upon returning from an absence, Ms. Wenezenki-Yolland would be

102 Evidence of K. Ackles, Transcript, November 2, 2020, p 47.

103 Ibid.

104 Ibid, p 48.

105 Exhibit 587, Meilleur #1, para 87.

106 Evidence of L. Meilleur, Transcript, February 12, 2021, pp 68–69.

107 Exhibit 587, Meilleur #1, para 91; Evidence of L. Meilleur, Transcript, February 12, 2021, p 72.

108 Exhibit 922, Wenezenki-Yolland #1, paras 103–4.

briefed on events that had transpired while she was away.[109] Given the information he had received from Mr. Ackles and Mr. Barber, Mr. Meilleur chose to reappropriate this scheduled meeting to brief Ms. Wenezenki-Yolland on suspicious cash transactions in the province's casinos, providing her with the spreadsheet prepared by Mr. Ackles and Mr. Barber.[110] Mr. Meilleur also provided a limited briefing on the E-Pirate investigation.[111]

Ms. Wenezenki-Yolland's reaction to this information was similar to that of Mr. Meilleur. She gave evidence that she was shocked and disturbed by what she was told in this briefing.[112] Mr. Meilleur recalled that Ms. Wenezenki-Yolland advised him that it had caused her to lose sleep.[113] It became clear to Ms. Wenezenki-Yolland that there was a need to accelerate efforts that she understood were already underway to enhance anti–money laundering efforts in the gaming industry and prioritize the preparation of briefing materials for the responsible minister.[114] Ms. Wenezenki-Yolland also formed the view that this matter should be brought to the attention of Mr. de Jong at the earliest possible opportunity, and set about arranging a briefing.[115] To this end, Ms. Wenezenki-Yolland, with Mr. Mazure's blessing, directed Mr. Meilleur that GPEB should prioritize the preparation of briefing materials for the minister, specifically requesting a streamlined "strategy document" in place of a lengthier briefing document that Ms. Wenezenki-Yolland understood to be under development.[116] Ms. Wenezenki-Yolland also contacted Mr. Milburn in the hope of arranging a time to brief Mr. de Jong as soon as possible, but due to Mr. de Jong's schedule, was unable to arrange a briefing until the latter part of September.[117]

Briefing of Minister Responsible for Gaming

Ms. Wenezenki-Yolland was ultimately successful in arranging a briefing of Mr. de Jong. While there was some uncertainty among the witnesses involved in the briefing as to the precise date on which it occurred, the evidence suggests that it took place in mid- to late September 2015.[118]

109 Ibid, paras 104–5; Exhibit 587, Meilleur #1, para 91; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 45–46.

110 Exhibit 587, Meilleur #1, para 91; Evidence of L. Meilleur, Transcript, February 12, 2021, p 72; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 45–46.

111 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 45–47; Exhibit 922, Wenezenki-Yolland #1, para 106; Evidence of L. Meilleur, Transcript, February 12, 2021, p 72; Exhibit 587, Meilleur #1, para 91.

112 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 46–47; Exhibit 922, Wenezenki-Yolland #1, para 106.

113 Evidence of L. Meilleur, Transcript, February 12, 2021, pp 72–73; Exhibit 541, Mazure #1, paras 150–51.

114 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 48; Exhibit 922, Wenezenki-Yolland #1, paras 108–9.

115 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 48; Exhibit 922, Wenezenki-Yolland #1, paras 108–12.

116 Exhibit 922, Wenezenki-Yolland #1, paras 109,114; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 48–50.

117 Exhibit 922, Wenezenki-Yolland #1, paras 112, 119–20; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 49–51.

118 Evidence of M. de Jong, Transcript, April 23, 2021, pp 66–67; Exhibit 541, Mazure #1, para 181; Evidence of J. Mazure, Transcript, February 5, 2021, pp 114–15; Exhibit 922, Wenezenki-Yolland #1, para 119; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 49–51.

Those present for the briefing included, at least, Mr. de Jong, Ms. Wenezenki-Yolland, Mr. Mazure, and the deputy minister – either Mr. Milburn or his successor.[119] In her evidence, Ms. Wenezenki-Yolland described the "strategy" for this briefing as being to identify for Mr. de Jong all of the measures that GPEB was already pursuing as well as additional options that could be pursued but which would require direction or a decision from Mr. de Jong himself.[120]

All of these measures – including those already being pursued by GPEB and those requiring direction from the minister – were set out in two documents provided to Mr. de Jong at the briefing.[121] The first of these was the "strategy document" requested of Mr. Meilleur by Ms. Wenezenki-Yolland, which identified a number of different courses of action that could be taken to address concerns about suspicious cash in the province's casinos.[122] The second was a briefing note identifying possible directives that could be issued to BCLC by Mr. de Jong, or by Mr. Mazure with the approval of Mr. de Jong.[123]

While there was some uncertainty as to whether the version of the strategy document that was entered into evidence was the final version presented to the minister, it is clear that it accurately represents the substance of what was presented to Mr. de Jong.[124] The strategy document sets out several measures that could be employed to address the concerns over suspicious cash in casinos that had arisen as a result of the spreadsheet prepared by Mr. Ackles and Mr. Barber. These included:[125]

- a strategic external review of BCLC reporting of suspicious and large cash transactions, focused on "gaming service provider and BCLC processes on customer due diligence specifically on source of funds and suspicious currency transactions";
- a ministerial directive to general manager of GPEB/BCLC – a two-part directive was recommended. The first part being "a broad Ministerial directive establishing obligations that BCLC must carry out. This is followed by a detailed general manager directive on specific initiatives with a focus on establish[ing] source of funds and source of wealth"; and
- creation of a GPEB compliance division intelligence unit "which will collect and analyze data which will help to identify trends and prevent further incidents of suspected illegal activity from occurring."

119 Exhibit 922, Wenezenki-Yolland #1, para 135.

120 Ibid, para 134.

121 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 50; Evidence of J. Mazure, Transcript, February 5, 2021, pp 120–21.

122 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 51; Evidence of M. de Jong, Transcript, April 23, 2021, pp 67–68; Evidence of J. Mazure, Transcript, February 5, 2021, pp 115–18; Exhibit 552, MOF Strategy Document, Gaming Policy and Enforcement Branch's Anti–Money Laundering Strategy Phase 3 (September 3, 2015) [MOF Strategy]; Exhibit 922, Wenezenki-Yolland #1, paras 134–35.

123 Exhibit 553, MOF Briefing Document, Options for Issuing Anti–Money Laundering Directives to BCLC (September 1, 2015) [MOF Briefing Document]; Exhibit 922, Wenezenki-Yolland #1, para 138; Evidence of J. Mazure, Transcript, February 5, 2021, pp 119–21.

124 Exhibit 922, Wenezenki-Yolland #1, para 135.

125 Exhibit 552, MOF Strategy, pp 9–10.

As part of the final measure, the authors of the strategy document also noted that at the June 4 workshop, GPEB and BCLC identified a lack of interdiction and enforcement presence in Lower Mainland casinos. The strategy document indicated that "[a]pproval needs to be granted from government for an assessment as to whether GPEB's role is to be increased or whether it is viable to examine the need and benefits of a joint interdiction team with police …"[126]

The second document provided to Mr. de Jong was a briefing document that included further detail regarding the ministerial directive proposed in the strategy document.[127] The briefing document outlined several options for providing direction to BCLC, including a directive from the minister, a directive from the general manager of GPEB with the consent of the minister, and combinations of these two options.[128] The appendices to this briefing note include examples of possible directives. While Mr. Mazure stressed in his evidence that these appendices were meant to be examples,[129] each example included either a ministerial or general manager's directive that are consistent with the requests made in Mr. Mazure's letter of August 7, 2015.[130] In his evidence, Mr. Mazure agreed that the reason he sought a directive from the minister mirroring his letter of August 7, 2015, is that he did not receive the response to his letter that he had hoped for from Mr. Lightbody and BCLC.[131]

Outcomes of Briefing of Minister Responsible for Gaming

Each of the measures identified in the strategy document provided to Mr. de Jong and referred to above led to action, in some form, from GPEB or from Mr. de Jong. These actions included the creation of an intelligence unit within GPEB's compliance division; the creation of a new, gaming-focused law enforcement unit that would come to be called the Joint Illegal Gaming Investigation Team (JIGIT); a letter from Mr. de Jong to the chair of the board of BCLC dated October 1, 2015, and a review of anti–money laundering measures in the gaming industry conducted by Meyers Norris Penney LLP (MNP) that was completed in 2016. Each is addressed below, followed by a discussion of the actions taken by BCLC and service providers during and following the implementation of these measures.

Creation of the GPEB Compliance Division Intelligence Unit

One of the measures proposed in the strategy document presented to Mr. de Jong was the creation of an intelligence unit within GPEB's compliance division. Mr. Meilleur identified the need for greater intelligence capacity early in his tenure as executive director of the compliance division as part of a strategy of greater engagement with

126 Ibid, pp 10–11.

127 Exhibit 553, MOF Briefing Document.

128 Ibid, pp 3–5.

129 Evidence of J. Mazure, Transcript, February 11, 2021, pp 135–36, 141.

130 Exhibit 553, MOF Briefing Document, pp 7–10; Exhibit 505, Lightbody #1, exhibit 48.

131 Evidence of J. Mazure, Transcript, February 5, 2021, p 131.

law enforcement.[132] Work toward the creation of the unit was already underway before Mr. Ackles and Mr. Barber created their spreadsheet.[133]

The intelligence unit was established with the GPEB compliance division in mid-2016 with two staff members.[134] The activities of the unit were described by Mr. Mazure in his affidavit as follows:[135]

> Mr. Scott McGregor and Mr. Robert Stewart, his supervisor, created documents for use within GPEB for our investigator's situational awareness of trends in transnational organized crime, gambling, and for sharing with law enforcement partners they were working with. I read the documents produced by the intelligence unit to inform myself and they were subsequently shared/and or used in briefings to [assistant deputy minister] Mr. Mazure, [associate deputy minister] Wenezenki-Yolland and other GPEB Executives.

I pause here to note that while GPEB seems to have established this intelligence unit in order to make better use of the information available to it, GPEB did not take steps to significantly enhance the collection of information about what was actually taking place in the province's casinos. As discussed in Chapter 10, GPEB had historically maintained a limited day-to-day presence within casinos, relying on service providers and BCLC's investigators to obtain information about suspicious transactions and the patrons engaged in such transactions. Based on the evidence before me, it does not appear that changing the nature of GPEB's in-casino presence was given serious consideration even in the wake of the E-Pirate revelations and the spreadsheet produced by Mr. Ackles and Mr. Barber. Even as BCLC had begun to make efforts to gather information about the source of funds used in large and suspicious transactions, including by interviewing the patrons involved in those transactions, GPEB did not begin to engage directly with these patrons.[136]

The issue of whether GPEB investigators could have interviewed patrons about the source of their funds was raised frequently throughout the Commission's hearings. Mr. Meilleur, who oversaw GPEB's investigators during this time period, was asked why they could not interview patrons about the source of their funds. He responded that he understood this type of investigation was the responsibility of law enforcement[137] and that GPEB had received legal advice that he understood to mean that its investigators could not conduct such interviews.[138] I return to this topic in Chapter 14.

132 Evidence of L. Meilleur, Transcript, February 12, 2021, pp 94–97.

133 Exhibit 587, Meilleur #1, para 62 and exhibit Z.

134 Ibid, paras 61–62.

135 Ibid, para 66.

136 Evidence of J. Mazure, Transcript, February 5, 2021, pp 134–35.

137 Evidence of L. Meilleur, Transcript, February 12, 2021, pp 34–35.

138 Evidence of L. Meilleur, Transcript, March 10, 2021, pp 4–16; Exhibit 1058, Affidavit #3 of Joseph Emile Leonard Meilleur, sworn on September 17, 2021 [Meilleur #3]; Exhibit 587, Meilleur #1, paras 68–69, 73; Exhibit 586, Compliance Under the Gaming Control Act – an Opinion Prepared for BC GPEB and BCLC – by Dr. Peter German (December 4, 2016).

Creation of the Joint Illegal Gaming Investigation Team

As part of the proposal to establish an intelligence unit within GPEB's compliance division, the strategy document identified a "lack of interdiction and enforcement presence at casinos … in the Lower Mainland."[139] This gap had previously been identified at the June 4 workshop, and there seemed to be clear agreement between BCLC and GPEB that there was a real need for greater law enforcement engagement in the gaming industry.[140] As noted above, Mr. Lightbody had advocated to Mr. de Jong for dedicated law enforcement resources in his letter of August 24, 2015, and gave evidence of a meeting with the minister around this time in which he and Bud Smith, then the chair of BCLC's board, expressed frustration at a lack of action by law enforcement on information reported to FINTRAC, police, and GPEB.[141] In the words of Mr. de Jong, by the fall of 2015, BCLC and GPEB were "singing from the same song sheet with a boisterous voice that in order to make further progress, we were going to need to see a level of police investigative presence that simply wasn't there."[142]

While this may have been the first time that the need for greater law enforcement engagement had been brought to Mr. de Jong's attention,[143] the notion that there was a need for a dedicated law enforcement unit focused on the gaming industry was not new. As discussed in Chapters 9 and 10, the need for greater police engagement had been identified repeatedly dating back to the late 1990s.[144] This included, but was not limited to, in proposals prepared by Ward Clapham[145] and Fred Pinnock,[146] and in discussions between Kevin Begg and the RCMP in early 2010.[147] This does not undermine the importance of the decision to establish JIGIT, discussed below, but raises the question of why, in light of the repeated identification of the need for such a unit, it was not until 2016 that such a unit was created.

Leaving aside, for now, the question of how previous proposals were handled, upon receiving GPEB's strategy document identifying a gap in law enforcement in

139 Exhibit 552, MOF Strategy, p 10.

140 Exhibit 587, Meilleur #1, para 144; Evidence of M. de Jong, Transcript, April 23, 2021, pp 65–66; Exhibit 505, Lightbody #1, para 118; Evidence of J. Lightbody, Transcript, January 28, 2021, p 27.

141 Exhibit 505, Lightbody #1, para 118, exhibit 49; Evidence of J. Lightbody, Transcript, January 28, 2021, p 27; Exhibit 537, Affidavit #1 of Stuart Douglas Boland Smith, sworn on January 22, 2021 [Smith #1], p 12.

142 Evidence of M. de Jong, Transcript, April 23, 2021, p 66.

143 Evidence of P. German, Transcript, April 13, 2021, pp 112, 118–19.

144 Exhibit 77, Overview Report: Integrated Illegal Gaming Enforcement Team, Appendix D, October 1997 Treasury Board Submission: Illegal Gambling Enforcement Unit.

145 Mr. Clapham is the former officer–in–charge of the Richmond RCMP. Evidence of W. Clapham, Transcript, October 27, 2020, pp 143–63 and Transcript, October 28, 2020, pp 11–12, 19; Exhibit 94, RCMP Briefing Note – Supt. Ward Clapham – Richmond RCMP Annual Reference Level Update 2007/2008; Exhibit 95, Calls for Service – Site Specific – The Great Canadian Casino and River Rock; Exhibit 96, Serious and Unreported Crime at the Casinos; Exhibit 97, City of Richmond – Report to Committee (September 1, 2006); Exhibit 98, City of Richmond – Additional Level Request Form for Budget Year 2007; Exhibit 101, RCMP Memorandum to City of Richmond (06–12–11).

146 Mr. Pinnock is the former officer–in–charge of the Integrated Illegal Gaming Enforcement Team. Evidence of F. Pinnock, Transcript, November 5, 2020, p 97; Exhibit 159, Integrated Illegal Gaming Enforcement Team (IIGET) – A Provincial Casino Enforcement–Intelligence Unit (June 27, 2007).

147 Mr. Begg is the former director of police services for the Province of British Columbia. Evidence of K. Begg, Transcript, April 21, 2021, pp 51–52.

the gaming industry, Mr. de Jong immediately gave direction to pursue the creation of a unit to fill this gap.[148] The following day, Mr. Mazure approved a draft letter to the commanding officer of the RCMP "E" Division seeking a meeting to discuss the creation of a coordinated team of RCMP, local police, and GPEB investigators with a mandate to enforce federal and provincial statutes related to gaming.[149]

These actions led to a complex and lengthy series of discussions between officials from a range of organizations, including the Ministry of Finance, the Ministry of Public Safety and Solicitor General, the RCMP, BCLC, and GPEB.[150] It is not necessary to review those machinations in detail for the purpose of this Report, but it is evident that all involved worked diligently to bring the proposed law enforcement unit to life and that it was accomplished with remarkable efficiency, given the complexity of the task and the normally deliberate pace for which government action is well known.[151]

The result of these endeavours was the creation of JIGIT, which was established in March 2016 within the existing Combined Forces Special Enforcement Unit.[152] The new unit consisted of 22 law enforcement personnel and four GPEB investigators.[153]

The purpose and objectives of the unit were set out in a letter dated March 10, 2016, to Mr. de Jong from the minister of public safety and solicitor general, Michael Morris. Mr. Morris's letter indicated that JIGIT would:[154]

> provide a dedicated, coordinated, multi-jurisdictional investigative and enforcement response to unlawful activities within British Columbia gaming facilities with an emphasis on anti–money laundering strategies, illegal gambling in British Columbia and provide a targeted focus on organized crime.
>
> JIGIT's primary strategic objectives will be targeting and disrupting top-tier organized crime and gang involvement in illegal gaming, and the prevention of criminal attempts to legalize the proceeds of crime through gaming facilities. The team's secondary strategic objective will be to have a clear public education function with respect to the identification and reporting of illegal gambling in British Columbia with consideration of its provincial partners.

148 Exhibit 541, Mazure #1, para 199; Evidence of M. de Jong, Transcript, April 23, 2021, pp 96–97.

149 Exhibit 541, Mazure #1, para 199.

150 Ibid, paras 200 and 202–203; Exhibit 505, Lightbody #1, paras 121–23; Evidence of J. Lightbody, Transcript, January 29, 2021, p 90; Exhibit 922, Wenezenki-Yolland #1, paras 141–48; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 68–69.

151 Evidence of C. Clark, Transcript, April 20, 2021, pp 56; Exhibit 922, Wenezenki-Yolland #1, para 141–48; Evidence of M. de Jong, Transcript, April 23, 2021, pp 96–97.

152 Evidence of M. de Jong, Transcript, April 23, 2021, pp 99–100; Exhibit 902, Letter from Mike Morris re JIGIT, March 10, 2016 [Morris Letter March 2016]; Evidence of K. Ackles, Transcript, November 2, 2020, pp 49–50.

153 Evidence of M. de Jong, Transcript, April 23, 2021, pp 99–100; Exhibit 902, Morris Letter March 2016; Evidence of K. Ackles, Transcript, November 2, 2020, p 49.

154 Exhibit 902, Morris Letter March 2016, p 1; Exhibit 144, Ackles #3, para 37.

The funding for JIGIT comes primarily from BCLC.[155] Allowances have been made within BCLC's cost ratio for this expense.[156] Mr. de Jong made the decision that the unit should be funded by BCLC and insisted that the funding of JIGIT should be "fenced" to ensure that funds intended for this unit would not be diverted to other purposes.[157]

Mr. de Jong's Letter of October 1, 2015, and Subsequent Correspondence

As discussed above, one of the possible measures raised with Mr. de Jong during the briefing precipitated by the spreadsheet prepared by Mr. Ackles and Mr. Barber was the issuance of a directive from Mr. de Jong – or from Mr. Mazure with Mr. de Jong's consent – to BCLC.[158]

Mr. de Jong issued a letter dated October 1, 2015, to Mr. Smith, then the chair of the board of directors of BCLC.[159] The letter began by acknowledging the involvement of BCLC in the first two phases of the province's anti–money laundering strategy and indicated that the letter's purpose was to provide direction regarding phase three of the strategy.[160] In the letter, Mr. de Jong explained that he had been advised that large and suspicious cash transactions remained prevalent in the province's casinos and indicated that "BCLC is directed to take the following actions with respect to [anti–money laundering]":[161]

> 1. Ensure that BCLC's [anti–money laundering] compliance regime is focused on preserving the integrity and reputation of British Columbia's gaming industry in the public interest, including those actions set out in the General Manager's letter of August 7 (enclosed) and any subsequent actions or standards that may follow;
>
> 2. Participate in the development of a coordinated enforcement approach with the Gaming Policy and Enforcement Branch (GPEB), the RCMP and local police to mitigate the risks of criminal activities in the gaming industry; and
>
> 3. Enhance customer due diligence to mitigate the risk of money laundering in British Columbia gaming facilities through the

155 Exhibit 902, Morris Letter March 2016, p 1; Exhibit 922, Wenezenki-Yolland #1, para 146 and exhibits W, X; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 68–69; Exhibit 505, Lightbody #1, paras 121–22; Evidence of J. Lightbody, Transcript, January 29, 2021, pp 90–92.

156 Exhibit 922, Wenezenki-Yolland #1, para 146 and exhibits W, X; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 68–69; Exhibit 505, Lightbody #1, paras 121–22; Evidence of J. Lightbody, Transcript, January 29, 2021, pp 90–91.

157 Exhibit 902, Morris Letter March 2016, p 1; Exhibit 922, Wenezenki-Yolland #1, para 146 and exhibits W, X; Exhibit 144, Ackles #3, para 37.

158 Exhibit 552, MOF Strategy.

159 Exhibit 900, Letter from Michael de Jong, providing BCLC with direction on phase three of the AML strategy (October 1, 2015).

160 Ibid, p 1.

161 Ibid.

> implementation of [anti–money laundering] compliance best practices including processes for evaluating the source of wealth and source of funds prior to cash acceptance.

Mr. de Jong concluded this correspondence by invoking Mr. Mazure's letter of August 7 a second time, advising that the actions directed in his letter "are in addition to, and in support of those activities identified in the August 7, 2015, letter from the general manager of GPEB to BCLC."[162]

The evidence before me indicates that these references to Mr. Mazure's letter were included by Mr. de Jong at the urging of Ms. Wenezenki-Yolland.[163] Ms. Wenezenki-Yolland told me that she requested that Mr. de Jong refer to Mr. Mazure's letter in order to reinforce his commitment to Mr. Mazure as general manager of GPEB and to affirm his expectation that BCLC would work with Mr. Mazure to address the issues raised in both letters.[164] In his own evidence, Mr. de Jong confirmed that the references to Mr. Mazure's letter were purposeful and intended to reflect that Mr. Mazure's letter had the full support of the responsible minister.[165]

Authority Invoked by Mr. de Jong's Letter of October 1, 2015

The briefing document and example directives provided to Mr. de Jong during the September briefing suggested the issuance of a directive under the authority provided by the *Gaming Control Act* to Mr. de Jong as the responsible minister and/or Mr. Mazure as the general manager of GPEB.[166]

The authority, if any, that Mr. de Jong intended to invoke through his letter of October 1, 2015, however, is not evident on the face of the letter.[167] The broader record before the Commission, however, suggests that Mr. de Jong did not intend to invoke his authority under the *Gaming Control Act* in issuing this letter. In his evidence, Mr. de Jong candidly acknowledged that he did not turn his mind to the precise statutory authority on which he was relying in issuing the directions contained in this letter, but that he was aware that he had the authority to issue directions to BCLC as the representative of government, which is the sole shareholder in BCLC, and that it was his intention do so.[168] This suggests that the letter was not intended as a direction issued under the *Gaming Control Act* and is consistent with the evidence of Ms. Wenezenki-Yolland, who suggested that the form of the letter was consistent with a desire to issue

162 Ibid, p 2.

163 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 57; Evidence of J. Mazure, Transcript, February 11, 2021, pp 185–86; Exhibit 922, Wenezenki-Yolland #1, para 149.

164 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 57; Exhibit 922, Wenezenki-Yolland #1, para 149.

165 Evidence of M. de Jong, Transcript, April 23, 2021, pp 86–87.

166 Exhibit 553, MOF Briefing Document.

167 Exhibit 900, Letter from Michael de Jong, providing BCLC with direction on phase three of the AML strategy (October 1, 2015).

168 Evidence of M. de Jong, Transcript, April 23, 2021, pp 85–86, 136–38.

direction under the "Crown accountability structure" rather than operational direction under the *Gaming Control Act*.[169] Further support for the conclusion that the letter does not represent directions issued under the *Gaming Control Act* is found in the apparent absence of compliance with the Act's requirement that any ministerial direction be published and made available for inspection at the GPEB office.[170]

Based on this evidence, I am satisfied that Mr. de Jong's letter of October 1, 2015, was not – and was not intended to be – a directive issued to BCLC pursuant to the authority granted to the responsible minister under the *Gaming Control Act*. However, Mr. de Jong gave evidence that while he did not have a precise statutory authority in mind when issuing this letter, he used the word "direct" in the letter deliberately and that it was his intention to be very clear that the letter contained directions reflecting the government's expectations.[171] Mr. de Jong asserted in his evidence that it was his expectation that BCLC would respond by taking appropriate action.[172]

While Mr. de Jong may not have had a clear sense of the precise authority he was invoking, he clearly intended to express to BCLC the expectations of government through his letter of October 1, 2015. Further, this was clearly communicated in the letter itself and it should have been evident to BCLC that it had, at the very least, a moral obligation to comply with the directions contained in the letter, even if the minister did not strictly satisfy the preconditions to invoking any particular legal authority. Based on the evidence before me, I do not understand the question of whether BCLC ought to have complied with this letter to be a contentious one as, based on the evidence before me, I understand it to be the view of BCLC that it did, in fact, comply with the expectations set out in the minister's letter. The precise meaning of the letter and the actions taken in response by BCLC are addressed below.

The Meaning of Mr. de Jong's Letter of October 1, 2015

Before considering BCLC's actions following the directions issued in Mr. de Jong's letter, it is necessary to determine, to the extent possible, not only what Mr. de Jong intended those directions to mean, but also whether that intention was effectively communicated.

The focus of this discussion will be on the reference in the third direction in Mr. de Jong's letter to evaluation of the source of funds prior to cash acceptance and the reference in the first direction to the "General Manager's letter of August 7 and any subsequent actions or standards that may follow" which is closely related to the issue of the evaluation of the source of funds. The reason for this focus, as will become apparent below, is that I understand there to be some degree of controversy as to BCLC's actions in response to these elements of Mr. de Jong's direction, whereas there seems to be little dispute with respect to BCLC's adherence to the remaining directions.

169 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 62–63.

170 *Gaming Control Act*, s 6(3); Evidence of M. de Jong, Transcript, April 23, 2021, p 137.

171 Evidence of M. de Jong, Transcript, April 23, 2021, p 86.

172 Ibid.

As indicated above, with respect to evaluation of the source of funds used in casino transactions, Mr. de Jong's letter directed BCLC to:[173]

> [e]nhance customer due diligence to mitigate the risk of money laundering in British Columbia gaming facilities through the implementation of [anti–money laundering] compliance best practices including processes for evaluating the source of wealth and source of funds prior to cash acceptance.

While this paragraph does not prescribe precise measures that BCLC is expected to implement, it does offer some guidance as to the response expected of BCLC. First, the use of the word "enhance" is clearly intended to indicate that BCLC is expected to improve or add to its current practices. The direction is not to maintain the status quo. Second, the enhancements to customer due diligence should be aimed at risk mitigation. This suggests that BCLC should take action to implement measures that reduce the overall risk of money laundering in casinos and not focus only on detecting and addressing actual instances of money laundering. Finally, the phrase "evaluating the source of wealth and source of funds prior to cash acceptance" draws a distinction between "source of wealth" and "source of funds" and directs BCLC to target both, while the concluding phrase "prior to cash acceptance" makes clear that this should be done before a transaction is accepted, presumably to allow cash transactions to be refused where appropriate.

Mr. de Jong's evidence indicates that the absence of prescription in this letter was deliberate and that beyond directing BCLC to do something more than it was already doing, Mr. de Jong did not have a detailed expectation of precisely the measures he expected BCLC to implement. He described his intention as follows in his evidence:[174]

> I did mean to convey … that we needed to go beyond what was taking place presently, that the status quo level of scrutiny was not achieving the objectives that we were collectively hoping for. And you have heard my hesitancy about being more prescriptive than that, given the fact that others possess more information than I did about the proper way to assess risk and judge a transaction. But I certainly meant to convey, and hoped I did, a belief that the status quo wasn't sufficient, and we were expecting officials to go beyond that.

While Mr. de Jong did not have a clear view as to precisely what measures BCLC ought to have implemented, he was able to provide an indication during his testimony of the measures he was *not* seeking from the BCLC. Mr. de Jong indicated in his evidence, for example, that he "did not mean to convey an intention that every single bank note" used in a transaction at a casino should be "scrutinized at a higher level."[175] Mr. de Jong also made clear that he had been persuaded at that time of the advisability

173 Exhibit 900, Letter from Michael de Jong, providing BCLC with direction on phase three of the AML strategy (October 1, 2015).

174 Evidence of M. de Jong, Transcript, April 23, 2021, p 88.

175 Ibid; see also Exhibit 903, Email exchange between Brittney Speed and Len Meilleur, re AML Strategy Language – draft BCLC mandate letter (November 19, 2015).

of remaining within a "risk-based" or "standards-based" framework and that he should avoid overly prescriptive measures, such as a threshold over which cash would need to be sourced before acceptance, or a ban on cash.[176]

Later in his evidence, however, Mr. de Jong indicated that he believed that the further measures he was directing BCLC to implement should be tied to suspicious transaction reporting:[177]

> [W]hat I was urging upon or attempting to urge upon the lottery corporation is this notion of working with the regulator to settle upon – the regulator being GPEB – to settle upon processes. So, for example, it occurred to me at the time that if the presentation of cash in a casino was generating a suspicious cash transaction report, that that should trigger some additional investigation or activity. I wasn't purporting to prescribe precisely what that should be, but it should be a trigger for additional activity.

Ms. Wenezenki-Yolland testified about her understanding of what Mr. de Jong meant when he directed BCLC to take additional measures to evaluate source of funds prior to cash acceptance.[178] She seems to have had a different perspective on Mr. de Jong's openness to the identification of a threshold value over which proof of source of funds would be required, and did not identify suspicious transaction reporting as a trigger for further activity.[179] Her evidence, however, was generally consistent with that of Mr. de Jong in that she also understood that, while Mr. de Jong clearly expected BCLC to do more than it was already doing, he did not have specific measures in mind that he expected BCLC to implement:[180]

> [F]rom my perspective, it would have meant that based on a determination of some of the risk elements which could be a level of cash, a level could be a trigger for risk assessment. It would depend on a number of risk factors. And I mentioned before it could be that you would increase your questioning around source of funds depending on – it could be a player's behaviour that might – what you need to do in the context of operations is provide some kind of direction or procedures for the people who are at the cash cage who would know what to do when they encounter different types of transactions, and that would typically be based on risk and some parameters that identify what would be potential risk. So, it could be a dollar value. It could be a number of suspicious cash transactions, depending on what that was. That had not been totally defined at that point. But my understanding is that GPEB and BCLC after that meeting would have left that meeting and then defined what those risk parameters might be.

176 Evidence of M. de Jong, Transcript, April 23, 2021, pp 88–90, 139–40, 145–46, 149.

177 Ibid, p 152.

178 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 66–67.

179 Ibid.

180 Ibid.

...

> It was very clear from my perspective that the minister expected more customer due diligence to be taken, even if he wasn't specific at the time about what that was, and it was very clear in my mind as well that that is what was intended.

I have no reason to question the sincerity of Ms. Wenezenki-Yolland's evidence that she understood Mr. de Jong was open to the identification of a threshold value over which proof of the source of funds would be required. Based on Mr. de Jong's evidence, however, that understanding does not appear to be consistent with the minister's state of mind at the time he sent this letter to BCLC.

BCLC Reaction and Efforts to Clarify Directions

Mr. de Jong's letter was addressed to Mr. Smith, who was then chair of the board of BCLC. Mr. Smith gave evidence that the meaning of the letter was discussed at some length within BCLC and that there were two competing points of view in those discussions.[181] One of these points of view was that the minister's letter reinforced BCLC's "risk-based" approach to evaluating patrons' source of wealth and source of funds and sought an extension of this approach.[182] The other interpretation of the minister's letter, according to Mr. Smith, was that the minister was directing BCLC to be much more prescriptive and that any patron buying-in with cash, regardless of amount, should be required to disclose their source of funds.[183] Mr. Smith's assessment was that a shift to a prescriptive approach would have required a considerable change to BCLC's business model.[184] Mr. Smith's belief, based on his past experience with Mr. de Jong, was that if Mr. de Jong wanted BCLC to abandon a risk-based approach for a prescriptive one, he would have said so directly.[185] However, the board wanted further clarity from Mr. de Jong and directed Mr. Smith to write a letter to Mr. de Jong seeking additional information about Mr. de Jong's expectations.[186]
Mr. Lightbody, who was present at the meeting, also recalled that Mr. Smith was directed to seek clarification from Mr. de Jong.[187]

The minutes of the meeting of the board of directors of October 29, 2015, reflect that Mr. de Jong's letter was discussed by the board but cast a different light on the nature of the discussion and the direction given to Mr. Smith.[188] The relevant entry from the minutes reads as follows:[189]

181 Evidence of B. Smith, Transcript, February 4, 2021, p 73.
182 Ibid.
183 Ibid.
184 Ibid, p 74.
185 Ibid, pp 73–74.
186 Ibid, p 74.
187 Evidence of J. Lightbody, Transcript, January 29, 2021, pp 37–38.
188 Exhibit 513, BCLC Minutes of the Meeting of the Board of Directors (October 29, 2015), p 7.
189 Ibid.

> Bud Smith reviewed issues arising from a recent directive received from the Minister. Discussion followed as to the most appropriate board response, given management estimates the effect of the direction for BCLC, if fully implemented, would be hundreds of millions of dollars. The Board directed that the Chair seek a meeting with the Minister to review implications of the directive.

This is a very brief summary of what seems likely to have been a fairly lengthy conversation and should be read with the understanding that it almost certainly does not fully capture all of the nuance of the discussion. However, it does seem to clearly indicate that, perhaps in addition to confusion about the meaning of the letter, the board was concerned about the financial implications of Mr. de Jong's direction and interested in ensuring that these implications were brought to the attention of Mr. de Jong. When asked about this aspect of the minutes of the meeting, Mr. Lightbody confirmed that BCLC was interested in ensuring that the minister understood the revenue implications of his direction but maintained that there was also uncertainty as to its meaning.[190]

Draft Letter from Mr. Smith to Mr. de Jong

While a draft letter was produced by Mr. Kroeker with input from Mr. Lightbody, Mr. Desmarais, and other members of BCLC's senior management team, it was not sent to Mr. de Jong.[191] Given that this letter appears to be an initial draft forwarded to Mr. Smith for review, caution should be exercised in drawing conclusions from its contents. No version of this letter was ever sent, and there is no evidence that Mr. Smith approved of or agreed with its contents and no evidence of the instructions given to Mr. Kroeker or others involved in its drafting before it was prepared. Still, it bears mentioning that the draft provided to Mr. Smith is more than a simple enquiry as to the meaning of Mr. de Jong's direction and seems to be consistent with the discussion and direction as reflected in the meeting minutes reproduced above.

The draft letter responds to all three of the directions included in Mr. de Jong's letter. With respect to the first two, it provides information about measures already in place and progress on additional efforts related to these directions.[192] Comments related to the third direction begin with a similar review of customer due diligence measures already in place and go on to describe enhancements to BCLC's cash alternative offerings then awaiting approval by GPEB.[193]

The commentary on the third direction does not include a query as to the meaning of Mr. de Jong's direction with respect to evaluation of source of wealth and source

190 Evidence of J. Lightbody, Transcript, January 29, 2021, pp 36–38.

191 Exhibit 538, Email to Bud Smith from Jim Lightbody, re Letter to Minister Re AML (October 24, 2015), with attachment, p 1; Evidence of B. Smith, Transcript, February 4, 2021, pp 75–76.

192 Exhibit 538, Email to Bud Smith from Jim Lightbody, re Letter to Minister Re AML (October 24, 2015), with attachment, p 2.

193 Ibid, pp 2–3.

of funds, as suggested by Mr. Smith. Rather, unlike the discussion of the first two directions, the commentary in response to the third direction continues with an argument against the adoption of more prescriptive source-of-funds measures.[194] The draft letter asserts that "the current processes in place provide strong anti–money laundering controls" that would be strengthened with an automated system to be brought online the following year. It advises that requiring source-of-funds and source-of-wealth evaluations for every transaction, or even every transaction of $10,000 or more, would result in a substantial disruption to BCLC's business.[195] The letter concludes by providing "context" to the concern expressed in Mr. de Jong's letter regarding the prevalence of large cash transaction reports generated by British Columbia casinos. This context included advice that casinos were responsible for only 1 percent of large cash transaction reports submitted to FINTRAC across Canada and an indication that "the number of large cash transactions at casinos is representative of [BCLC's] increased focus on training and systems to meet the requirements set out by FINTRAC."[196]

As indicated above, the importance of this draft letter should not be overemphasized. It was not sent, and there is no evidence that Mr. Smith approved of its contents. Nor is there evidence of the directions that led to its creation. However, it was prepared by and in consultation with BCLC's senior management and does provide some indication that the initial reaction of some within BCLC to the minister's letter of October 1, 2015, was not just confusion as to the meaning of the direction, but concern that one possible interpretation of the direction, if applied, could result in a substantial loss of revenue for BCLC. That the CEO and several other senior executives contributed to its creation suggests that the views expressed in the letter were of some prominence within BCLC's senior management. I do not suggest, at this stage, that there was necessarily anything inappropriate about this reaction. As noted by Mr. Lightbody, it is the role of BCLC to advise the responsible minister of the revenue implications of potential policy changes.[197] Whether the manner in which this advice was provided in this context was appropriate is best considered in the context of all of the evidence and will be addressed in Chapter 14.

Mr. Smith's Meeting with Mr. de Jong

The reason that the draft letter discussed above was never finalized or sent was that Mr. Smith had a chance meeting with Mr. de Jong and was able to seek clarification of the direction issued by Mr. de Jong in person.[198] Mr. Smith provided the following account of this conversation in his oral evidence:[199]

> I asked the minister, I said look – I made reference to this letter and I said, there's two points of view even within our own executive about what

194 Ibid, pp 4–5.

195 Ibid, p 4.

196 Ibid, p 5.

197 Evidence of J. Lightbody, Transcript, January 29, 2021, pp 37–38.

198 Evidence of B. Smith, Transcript, February 4, 2021, pp 75–76.

199 Ibid, p 76.

> that means, and I want to know from you … do you want us to basically [question] everyone who comes in the door with cash, to stand them aside and question them about the source of their money, or is this about us being more deliberate and more fulsomely doing what we've been trying to do up till now on a risk-based approach; do you want to go away from the risk-based approach to a dollar-specific approach? And he said, I do not want you to go to a dollar-specific approach; I want you to continue with your risk-based approach, but I want there to be more action to try to get … a better handle on what's going on.

Mr. de Jong did not deny that this conversation may have taken place but did not recall it.[200] He also did not recall becoming aware of competing interpretations of his letter at this time.[201] However, Mr. Smith's account is consistent with Mr. de Jong's evidence about the intention underlying his direction and I accept that the conversation between Mr. de Jong and Mr. Smith took place and that Mr. Smith's account of this conversation is accurate. Mr. Smith reported this clarification to the board and to Mr. Lightbody.[202]

Subsequent Correspondence to BCLC from Government

Correspondence between government and BCLC on matters related to money laundering and proceeds of crime in the province's casinos did not conclude with Mr. de Jong's letter of October 1, 2015. Subsequent to this letter – as had been his practice previously, as well as that of his predecessors – Mr. de Jong continued to send annual mandate letters to BCLC, which touched on its anti–money laundering efforts, alongside other matters. These mandate letters are relevant to the question of Mr. de Jong's intention in sending his letter of October 1, 2015, as they represented an opportunity to expand upon or clarify the direction issued in that correspondence. In his evidence, Mr. de Jong specifically urged that the October 2015 letter be read alongside the mandate letter that followed.[203]

In addition to these mandate letters from Mr. de Jong, Mr. Mazure carried on a correspondence with Mr. Lightbody on matters related to BCLC's anti–money laundering efforts for approximately two years following Mr. de Jong's October 2015 letter. It is evident that Mr. de Jong had no role in preparing these letters and does not seem to have been aware of this correspondence. As such, they should not be viewed as offering any insight into the meaning of the October 2015 letter or Mr. de Jong's intention in sending it. However, they remain relevant to the broader issue of the response to the October 2015 letter, as Mr. de Jong specifically invoked in his letter "the General Manager's letter of August 7 … and any subsequent actions or standards that

200 Evidence of M. de Jong, Transcript, April 23, 2021, pp 91–93.

201 Ibid, pp 90–91.

202 Evidence of B. Smith, Transcript, February 4, 2021, p 76.

203 Evidence of M. de Jong, Transcript, April 23, 2021, pp 151–52.

may follow." Accordingly, while Mr. Mazure's letters do not amount to directions to BCLC under the *Gaming Control Act*, Mr. de Jong's letter expressed his expectation that BCLC would be guided by communications from Mr. Mazure.

2016–17 and 2017–18 BCLC Mandate Letters

Following his letter of October 1, 2015, and prior to the conclusion of his tenure as finance minister and minister responsible for gaming in 2017, Mr. de Jong issued two mandate letters to BCLC, one for the 2016–17 fiscal year and one for the 2017–18 fiscal year.[204]

In both mandate letters, Mr. de Jong reiterated the directions issued in his October 2015 letter. In the 2016–17 mandate letter, Mr. de Jong wrote, in part:[205]

> BCLC will provide a quarterly report to the Minister of Finance on the implementation of the government's Anti–Money Laundering (AML) Strategy and mitigation of related illegal activities. This will include, but not be limited to:
>
> a) Activities undertaken to ensure the Corporation's compliance regime is focused on preserving the integrity and reputation of BC's gaming industry in the public interest;
>
> b) Participation in the development of, and providing funding to support, an enhanced coordinated enforcement approach with the Gaming Policy and Enforcement Branch, the RCMP and local police to mitigate the risk of criminal activities in the gaming industry;
>
> c) The implementation of anti–money laundering compliance best practices with appropriate consideration of evaluating the source of wealth and source of funds prior to cash acceptance within a risk based framework;
>
> d) Providing input to the Ministry of Finance in the development of a public information and education strategy and action plan for the government's review and approval.

This letter mirrors, but does not expand upon, the directions issued in Mr. de Jong's October 2015 letter. This is notable, as there is evidence that, at one point, there was an intention to use this mandate letter to provide further clarity regarding the minister's expectations with respect to evaluation of the source of funds. An email from a GPEB staff member to Mr. Meilleur dated November 19, 2015, indicated that this was the case.

204 Exhibit 892, Mandate Letter to BCLC for the 2016–2017 Fiscal Year (January 29, 2016); Exhibit 893, Mandate Letter to BCLC for the 2017–2018 Fiscal Year (December 2016).

205 Exhibit 892, Mandate Letter to BCLC for the 2016–2017 Fiscal Year (January 29, 2016), p 3.

This email read in part:[206]

> In a meeting with Bud Smith yesterday, Minister committed to clarify through the mandate letter, that the evaluation of source of funds prior to cash acceptance, does not imply that they need to check every $20 bill that comes in the door. That a pragmatic, risk based approach should be taken in appropriate consideration of evaluating the source of funds.

It is clear from the mandate letter that the clarification promised to Mr. Smith was not provided, at least in this letter.

BCLC's anti–money laundering measures were also addressed in Mr. de Jong's subsequent mandate letter for the 2017–18 fiscal year. The language used in that letter differed from that used in the 2016–17 letter but was largely consistent with both the October 2015 letter and the 2016–17 mandate letter.[207] This letter also did not provide clarification regarding Mr. de Jong's expectations with respect to the evaluation of the source of funds used in transactions in the province's casinos.[208]

Correspondence Between Mr. Mazure and Mr. Lightbody

Mr. Mazure's Letters

Subsequent to his letter of August 7, 2015, and Mr. de Jong's letter of October 1, 2015, Mr. Mazure wrote to Mr. Lightbody on multiple occasions on the subject of BCLC's anti–money laundering regime.[209] In these letters, including those dated January 15, 2016,[210] July 14, 2016,[211] and May 8, 2017,[212] Mr. Mazure repeatedly expressed his concern over the prevalence of suspicious cash transactions in the province's casinos and emphasized the importance of taking action to evaluate the source of funds used in casino transactions.

In the January 15, 2016, letter, Mr. Mazure wrote:[213]

> I appreciate the efforts of … BCLC in tracking and reporting suspicious cash transactions (SCTs). However, I continue to be concerned by the prevalence of SCTs at British Columbia casinos. Further to the letter from the Minister of Finance addressed to Mr. Bud Smith on October 1, 2015, I expect BCLC to implement AML best practices with appropriate consideration of evaluating

206 Exhibit 903, Email exchange between Brittney Speed and Len Meilleur, re AML Strategy Language – draft BCLC mandate letter (November 19, 2015).

207 Exhibit 893, Mandate Letter to BCLC for the 2017–2018 Fiscal Year (December 2016).

208 Ibid.

209 Exhibit 505, Lightbody #1, exhibits 54, 55, 57.

210 Ibid, exhibit 54.

211 Ibid, exhibit 55.

212 Ibid, exhibit 57.

213 Ibid, exhibit 54.

> the source of wealth and source of funds prior to cash acceptance as well as robust [customer due diligence] policies and [know your customer] requirements. These processes and policies should be based on a sound risk based framework that considers SCTs as one element of the framework.

Approximately six months later, in the July 14, 2016, letter, Mr. Mazure offered more specific suggestions as to the type of measures BCLC could put in place to evaluate the source of funds:[214]

> To ensure the Province is taking the steps necessary to eliminate the proceeds of crime from B.C. gaming facilities and to support the [anti–money laundering] strategy and the integrity of gaming in B.C., BCLC should contemplate not accepting funds where the source of those funds cannot be determined or verified, within a risk-based framework. This approach could include, for example, a source of funds questionnaire and a threshold amount over which BCLC would require service providers to refuse to accept unsourced funds, or a maximum number of instances where unsourced funds would be accepted from a patron before refusal.

While I will refrain from commenting on the potential effectiveness of these reforms at this stage, I pause to note that Mr. Mazure's suggestion of "a threshold amount over which BCLC would require service providers to refuse to accept unsourced funds" is at odds with Mr. de Jong's evidence that this strategy is the sort of prescriptive measure he did *not* want BCLC to implement.[215] This underscores that the lack of clarity as to precisely what was expected of BCLC at this time was not limited to BCLC itself, but also existed within GPEB and government.

Finally, in the May 8, 2017, letter, Mr. Mazure acknowledged significant reductions in suspicious transactions, but continued to express concern regarding both the volume of suspicious cash received by the province's casinos and the circumstances in which it continued to be accepted:[216]

> The Gaming Policy and Enforcement Branch (GPEB) has noted a downward trend in the total dollar value of cash entering B.C. gambling facilities through suspicious transactions. According to GPEB's data, suspicious cash transactions, which are based on reports provided to GPEB by service providers in accordance with section 86 of the *Gaming Control Act*, have declined from approximately $177 million in 2014 to $132 million in 2015 and to $72 million in 2016. This is a significant reduction and reflects the actions taken to date by BCLC to reduce suspicious cash. However, $72 million is still a significant amount of suspicious cash.
>
> GPEB remains concerned by both the large volume of unsourced cash that continues to enter B.C. gambling facilities and the circumstances

214 Ibid, exhibit 55.

215 Evidence of M. de Jong, Transcript, April 23, 2021, pp 88–90, 139–40, 145–46, 149.

216 Exhibit 505, Lightbody #1, exhibit 57.

> under which the cash was accepted as detailed in the section 86 reports. The following information was taken from section 86 reports during December 2016:
>
> - Approximately $2.3 million of the $3.8 million accepted were $20 bills, often bundled in elastic bands;
> - 13 incidents in which cash was observed to be delivered to patrons by a third party; and,
> - Of 124 suspicious cash transactions, from December 2016, service providers refused the transaction on only four occasions.

The letter went on to also raise concerns about the money laundering risk associated with *non*-cash transactions, particularly those involving bank drafts, and emphasized the importance of customer due diligence for PGF account holders.

In his evidence before the Commission, Mr. Mazure provided further insight into his purpose in authoring these letters. He testified that his letters were not intended to be general manager's directions to BCLC under the *Gaming Control Act*.[217] Mr. Mazure was not trying to direct BCLC and understood that he did not have the authority to do so without the consent of the responsible minister.[218] He explained that he had been urged by Mr. Meilleur to begin pressing BCLC on evaluating the source of funds used in suspicious transactions[219] and that he was trying to convey to Mr. Lightbody that BCLC needed to take further action to do so.[220] Mr. Mazure did not intend to advise BCLC of precisely how they should assess risk with respect to the source of funds, but sought to convey that there was a need to lower its risk tolerance:[221]

> I wasn't being specific here about the risk approach you take, but what I was trying to convey is you need to draw the line a little lower. We're still seeing suspicious cash, so you need to take another slice out of, you know, the next tier of patrons that come closest to that criteria, if I can use that terminology. And that's what we were looking for.

In addition to this correspondence, Mr. Mazure testified that he spoke regularly with Mr. Lightbody by telephone,[222] which was consistent with Mr. Lightbody's evidence.[223] Accordingly, the correspondence referred to above should not be viewed as the entirety of the interactions between the leaders of the two organizations. Mr. Mazure recalled discussing a number of possible options for evaluating source of funds in those conversations, including "a cap on the amount of cash a person could bring into

217 Exhibit 541, Mazure #1, para 159.

218 Evidence of J. Mazure, Transcript, February 5, 2021, pp 207–8.

219 Exhibit 541, Mazure #1, paras 157–58.

220 Ibid, paras 158, 173; Evidence of J. Mazure, Transcript, February 5, 2021, p 219.

221 Evidence of J. Mazure, Transcript, February 5, 2021, p 219.

222 Exhibit 541, Mazure #1, para 154.

223 Evidence of J. Lightbody, Transcript, January 29, 2021, p 123.

a casino, a threshold beyond which a person would be required to provide proof of the source of their funds (e.g., a source-of-funds declaration), and several transactions above a threshold after which proof of source of funds would be required."[224]

Mr. Mazure gave evidence that he continued to write these letters because BCLC never implemented measures that were satisfactory to him.[225] He did not recall whether he had advised Mr. de Jong that BCLC was not taking satisfactory action in response to Mr. Mazure's recommendations.[226] He believed, however, that it had been made clear to Mr. de Jong that BCLC was not taking appropriate action in response to Mr. de Jong's direction of October 1, 2015, pointing to the subsequent mandate letters as evidence.[227] The evidence of Ms. Wenezenki-Yolland corroborates that Mr. Mazure made some effort to bring these concerns to Mr. de Jong's attention. Ms. Wenezenki-Yolland gave evidence that Mr. Mazure communicated his concerns to her as well as to the minister in a "pre-briefing" and briefing on October 12 and 13, 2016, respectively, at which both she and Mr. Mazure advised the minister of their concerns about BCLC's actions in this regard.[228] Mr. de Jong's evidence, however, was that he was unaware of any concern that BCLC was not taking appropriate action, that he understood that BCLC was compliant with the direction issued in his letter of October 1, 2015, and that BCLC was successfully reducing suspicious cash in the province's casinos.[229] This is difficult to reconcile with the evidence of Mr. Mazure and Ms. Wenezenki-Yolland, as they make clear that Mr. de Jong was made aware of what they viewed to be shortcomings in BCLC's efforts.

Mr. Lightbody's Responses

Mr. Lightbody provided regular responses to Mr. Mazure's letters. In these responses, among other topics, Mr. Lightbody repeatedly answered Mr. Mazure's pleas for greater action to examine the source of funds used in suspicious transactions by advising that BCLC was *already* taking action to evaluate the source of funds. In a letter dated August 3, 2016, for example, Mr. Lightbody advised:[230]

> I appreciate your suggestion that BCLC ensure its new proposals are conducted within a risk based anti–money laundering framework, and specifically that on a risk basis source of wealth and source of funds inquiries should form part of that framework. I can confirm that source of wealth and source of funds inquiries are in fact incorporated into the BCLC anti–money laundering program and will apply to the proposals when implemented along with all the other program elements aimed at countering money laundering.

224 Exhibit 541, Mazure #1, paras 162, 191.

225 Evidence of J. Mazure, Transcript, February 5, 2021, p 132; Transcript, February 11, 2021, p 188.

226 Evidence of J. Mazure, Transcript, February 5, 2021, p 132.

227 Ibid, pp 133–34.

228 Exhibit 922, Wenezenki-Yolland #1, paras 160, 175–80.

229 Evidence of M. de Jong, Transcript, April 23, 2021, pp 141, 156, 162–64.

230 Exhibit 505, Lightbody #1, exhibit 56.

Similarly, in a letter dated May 12, 2017, written in response to Mr. Mazure's letter of May 8, 2017, Mr. Lightbody wrote:[231]

> In your correspondence, you make inquiries about source of funds. BCLC's anti–money laundering program incorporates both source of funds and source of wealth determinations.
>
> …
>
> You express concerns about instances where casino customers present $20 dollar denomination bank notes wrapped in elastic bands, and I agree that caution is needed in these circumstances. When this type of circumstance occurs, as part of BCLC's customer due diligence procedures, BCLC makes inquiries around the source of funds and other factors relevant to the transaction. In more than one case, BCLC determined that the $20 bank notes originated from a registered money services business (MSB). Upon further inquiries, BCLC determined that MSBs often issue $20 bank notes because that denomination makes up the vast majority of Canadian currency in circulation. Further, BCLC has learned it is fairly standard practice for an MSB to bundle large numbers of bank notes, of any denomination, with elastic bands as that is simply the most practical way for them to handle the money. As a result of inquiries, and despite initially appearing suspicious, follow-up inquiries in some cases have pointed to nothing untoward. Having said that I can assure you we will remain vigilant on this front and welcome any additional information or support GPEB can provide.

Mr. Lightbody described the message he sought to convey in his correspondence with Mr. Mazure as follows:[232]

> I note that throughout these communications with Mr. Mazure, I tried to consistently convey the priority given by BCLC to AML measures and to the source of funds of patrons in particular. I sought to communicate that BCLC took a risk-based approach to AML, including source of funds, consistent with AML best-practices. This risk-based approach drove the measures pursued by BCLC, such as our investments in Know your Customer and risk-rating our customers, which in turn led to putting Extreme and High Risk players on sourced cash conditions or barring them from play.

Mr. Lightbody also repeatedly emphasized in his evidence BCLC's adherence to a "risk-based" approach in evaluating the source of funds used in casino transactions.[233] As a result of this adherence, and the repeated references to "risk-based" practices in

231 Ibid, exhibit 58.

232 Ibid, para 193.

233 Evidence of J. Lightbody, Transcript, January 28, 2021, p 45–46, 60–63 and Transcript, January 29, 2021, pp 8, 10, 20–22, 25–27, 29, 31–32, 35, 61, 63, 97–99, 120–21; Exhibit 505, Lightbody #1, paras 87, 150, 193.

Mr. Mazure's letters, Mr. Lightbody understood that Mr. Mazure was not asking that BCLC implement a "general source of funds policy" or assess the source of funds in every suspicious cash transaction.[234] Rather, Mr. Lightbody's evidence was that he did not understand Mr. Mazure's letters to require a significant shift in BCLC's approach to evaluation of the source of funds at all, as he understood that Mr. Mazure wanted BCLC to carry on with the efforts it was already making:[235]

> I took this to say continue what you're doing, which was to focus on identifying source of wealth and funds with your customer due diligence as integral components of your client's risk assessments, which we were doing, and I appreciated him understanding that.

Later in his evidence, Mr. Lightbody clarified that this did not mean that he understood that Mr. Mazure wanted BCLC's efforts to evaluate the source of funds to remain static and unchanged, but rather that those efforts should continue to develop along the trajectory already being followed.[236]

GPEB's Understanding of BCLC's Source-of-Funds Measures

On the face of these letters, it is difficult to reconcile Mr. Mazure's requests regarding evaluation of the source of funds with Mr. Lightbody's responses. Over the span of nearly two years Mr. Mazure repeatedly asked Mr. Lightbody to ensure that BCLC was evaluating the source of funds used in suspicious transactions. In response, Mr. Lightbody repeatedly advised Mr. Mazure that BCLC was already doing so. While the evidence of both Mr. Mazure and Mr. Lightbody was that these two individuals spoke regularly on the telephone,[237] in my view, it is evident from these letters that they, as the leaders of GPEB and BCLC, were speaking past one another at this time and that something was severely lacking in the communication between these two individuals and in the relationship between the two organizations.

In my view, the sources of this apparent lack of connection were GPEB's limited understanding of what, precisely, BCLC was doing with respect to the evaluation of the source of funds and BCLC's resistance to implementing source-of-funds requirements more broadly or more quickly than it was. At the time of his oral evidence, Mr. Mazure had difficulty recalling precisely what he knew of BCLC's efforts to evaluate the source of funds at the time he was writing to Mr. Lightbody.[238] He acknowledged, however, that he would not have known about BCLC's program in detail and would have relied on Mr. Meilleur's knowledge in this regard.[239] While this reliance on his subordinate is not unreasonable for a person in Mr. Mazure's position, there is

234 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 40–41 and Transcript, January 29, 2021, pp 10, 120–21.

235 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 40–41.

236 Evidence of J. Lightbody, Transcript, January 29, 2021, pp 11–12.

237 Evidence of J. Lightbody, Transcript, January 29, 2021, p 123; Exhibit 541, Mazure #1, para 154.

238 Evidence of J. Mazure, Transcript, February 5, 2021, pp 220–22.

239 Ibid, pp 201–5, 220–21, 227–28; Evidence of J. Mazure, Transcript, February 11, 2021, p 183.

evidence that the level of knowledge within GPEB generally about BCLC's source-of-funds program was also limited.

A January 25, 2017, email from GPEB senior policy analyst Jeff Henderson to both Mr. Mazure and Mr. Meilleur regarding a briefing document produced by BCLC, identified the limits of GPEB's knowledge of BCLC's source of funds initiatives:[240]

> The attached document just tells us the trends in reporting with FINTRAC as compared to high limit table drops and then briefly explains why BCLC thinks there has been some positive trending. This info is somewhat helpful, but it's pretty high-level in terms of steps BCLC is taking regarding unsourced cash.
>
> I know that they use a risk assessment tool for categorizing patrons as low / med / high / extreme risk and have certain actions they take with respect to some high risk patrons. This document mentions the source of funds directive requiring patron[s] to provide source of funds (i.e. ATM slip or bank receipt) or they can't buy in, as well as source of funds interviews requiring [service providers] to interview patrons requiring source of funds. What I don't know is what triggers them to take these specific steps with certain high risk patrons and what steps they take depending on responses to interview questions.

This email is consistent with Ms. Wenezenki-Yolland's evidence that, in January 2017, GPEB was "trying to gain a better understanding of the workings of BCLC's existing source of cash protocols."[241]

The limited knowledge about BCLC's source-of-funds initiatives revealed by Mr. Mazure's evidence and by this email, sent approximately a year and a half after Mr. Mazure had begun to ask BCLC to take further action, suggests that Mr. Mazure's recommendations were not based on knowledge of or concern about specific deficiencies in what BCLC was doing. Rather, it appears that Mr. Mazure and GPEB believed that BCLC's efforts were insufficient simply because the volume of suspicious cash accepted by casinos remained high. To be clear, I do not suggest that this is an illegitimate basis for concern. The goal of both government and GPEB at the time was to reduce the amount of suspicious cash accepted by casinos. It stands to reason that, if levels of suspicious cash remained above acceptable levels, further action was required.

However, in understanding the correspondence between Mr. Mazure and Mr. Lightbody, it is relevant that Mr. Mazure and GPEB had limited information about what BCLC was already doing to address this issue. When Mr. Mazure gave evidence that he did not believe that BCLC complied with the directions of the minister or took adequate action in response to his letters, what he was really saying is that he was not seeing the

240 Exhibit 583, Email chain, re BCLC Briefing Note (January 22–January 26, 2017), with attachment, pp 2–3.
241 Exhibit 922, Wenezenki-Yolland #1, para 204.

results that he had hoped for. He was not in a position to directly evaluate the actions taken by BCLC, because he did have the necessary understanding of what those actions were.

In my view, while the results achieved by BCLC's efforts are a fair basis for the evaluation of those efforts, it is also necessary to examine the actions actually taken by BCLC. These actions are discussed below.

BCLC Anti–Money Laundering Enhancements Following Mr. de Jong's Letter of October 1, 2015

Following Mr. de Jong's letter of October 1, 2015, and during the period in which Mr. Mazure and Mr. Lightbody exchanged the letters discussed above, BCLC made multiple enhancements to its efforts to combat money laundering in the province's casinos. These enhancements had the effect of reducing the volume of suspicious cash accepted in British Columbia casinos.

Many of the most significant changes were focused on evaluation of the source of funds used in large and suspicious cash transactions conducted by some of the patrons gaming at the highest levels. Because evaluation of the source of funds was a central focus of both Mr. Mazure's letters and the Commission's hearings, the discussion that follows will concentrate on these changes. I recognize, however, that the enhancements to BCLC's anti–money laundering regime during this time period were not limited to source-of-funds initiatives.[242] Other relevant measures include the expansion of BCLC's anti–money laundering unit in 2016;[243] the development, proposal, and implementation of new cash alternatives;[244] information-sharing with and training of law enforcement;[245] and the expansion of existing information-sharing agreements and development of new information-sharing agreements with law enforcement and provincial government agencies,[246] among other measures. I accept that these were positive measures that evidence BCLC's dedication to addressing the risk of money laundering. However, because they are not the source of significant controversy, the following discussion will focus on measures directed specifically at understanding the sources of suspicious cash and reducing suspicious transactions.

Growth and Development of Cash Conditions Program

By the time of Mr. de Jong's letter of October 1, 2015, BCLC had already established and begun implementation of its formal cash conditions program. By this time, a

242 Exhibit 148, Tottenham #1, exhibit 12.

243 Exhibit 78, Beeksma #1, para 84; Evidence of S. Lee, Transcript, October 27, 2020, p 100; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 196–97; Exhibit 505, Lightbody #1, para 85; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 71–72.

244 Exhibit 490, Kroeker #1, paras 93, 139–44 and exhibits 60–66; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 104–6, 111–12; Exhibit 587, Meilleur #1, paras 40–46 and exhibits I–M.

245 Exhibit 148, Tottenham #1, exhibit 12.

246 Exhibit 490, Kroeker #1, paras 176–78; Exhibit 522, Desmarais #1, para 26 and exhibit 7.

formal protocol for the program had been approved, and approximately 36 patrons,[247] including some of the province's most prolific gamblers, had been placed on conditions that prevented them from buying-in with unsourced cash, among other restrictions.[248] While this is a relatively small number, it was at least a move in the right direction.

The program continued to expand and evolve following receipt of Mr. de Jong's letter. Shortly after taking on his new position with BCLC, Mr. Kroeker approved a supplementary protocol introducing more stringent measures specifically aimed at suspicious cash.[249] Mr. Kroeker approved this supplementary protocol on October 21, 2015,[250] three weeks after the date of Mr. de Jong's letter. By the end of 2015, the number of patrons on cash conditions had increased to 43, followed by an additional 61 patrons in 2016.[251] A further 107, 209, and 179 patrons were placed on cash conditions in 2017, 2018, and 2019 respectively.[252] I note, however, that in January 2018, following a recommendation made in a report prepared by Dr. Peter German, proof of the source of funds was required for all transactions of $10,000 or more in cash and other bearer monetary instruments. This meant that the practical impact of the imposition of cash conditions following January 2018 was limited to requiring affected patrons to provide proof of the source of funds used in transactions below $10,000.

Unlike the initial 36 patrons subjected to conditions by September 2015, the measures imposed on these later patrons were not necessarily the result of information obtained from law enforcement. In accordance with the supplemental protocol approved by Mr. Kroeker, conditions could be and were imposed in response to suspicious activity alone.[253] The typical process was described by former BCLC investigator Michael Hiller, who confirmed that there continued to be large cash buy-ins in Lower Mainland casinos during this time period, but that BCLC's anti–money laundering team could and, in many cases, did take action after becoming aware that a player was engaged in such activity:[254]

> Q In the face of source of cash restrictions being implemented and – initially on a few players and then more, did there … continue to be a volume of large cash buy-ins that were occurring at Lower Mainland casinos?

247 Exhibit 490, Kroeker #1, exhibit 39.

248 Exhibit 148, Tottenham #1, paras 87–88 and exhibit 8; Exhibit 522, Desmarais #1, para 49 and exhibit 25; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 185–87; Evidence of S. Beeksma, Transcript, October 26, 2020, p 152–54; Exhibit 1031, BCLC Investigations Protocol for Educating, Warning, Sanctioning or Barring Patrons (April 16, 2015); Evidence of B. Desmarais, Transcript, February 2, 2021, p 106; Exhibit 490, Kroeker #1, paras 96–101.

249 Exhibit 86, BCLC Protocols; Evidence of R. Alderson, Transcript, September 10, 2021, pp 62–65; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 152–53.

250 Exhibit 86, BCLC Protocols, p 3.

251 Exhibit 482, Cuglietta #1, exhibit A.

252 Ibid; Exhibit 490, Kroeker #1, exhibit 39.

253 Evidence of S. Beeksma, Transcript, October 26, 2020, p 150; Exhibit 148, Tottenham #1, paras 140, 160–61; Exhibit 490, Kroeker #1, paras 100–1; Evidence of M. Hiller, Transcript, November 9, 2020, pp 64–65.

254 Evidence of M. Hiller, Transcript, November 9, 2020, pp 64–65.

> A Yes. Any player that didn't have conditions. And they were more likely to be brand new players that just arrived from China that we were not aware of previously therefore there were no conditions set in iTrak. They were allowed to buy in with … large amounts of cash until such time as maybe one, two or three incidents occurred and we were able to document the suspicious nature of those transactions. And then the AML team would then become aware of that and put conditions on those players as well.

Daryl Tottenham, currently BCLC's manager of anti–money laundering programs, explained the progression of the cash conditions program. He indicated that, once BCLC had addressed the patrons connected to the E-Pirate investigation, it began to focus on additional patrons based on the value of their cash buy-ins, initially targeting those with the largest cash buy-ins:[255]

> Starting in early 2016, BCLC's AML Unit began focusing on the highest value cash patrons not currently on sourced cash conditions and considering placing them on conditions, which quickly resulted in 40–50 additional people being placed on sourced cash conditions. The AML Unit then moved down to considering placing patrons buying in over $100,000 on sourced cash conditions.
>
> The AML Unit continued to lower the cash buy-in threshold at which it would consider sourced cash conditions for a patron. By the time of the German recommendations in 2018, BCLC was already considering sourced cash conditions for patrons buying in for $30,000 to $40,000. My goal was to reach $25,000 as the buy-in threshold for considering sourced cash conditions.

In his oral evidence, Mr. Tottenham emphasized that the continued growth and expansion of the program was planned and that BCLC's objective was to increase the number of players on cash conditions by targeting those buying-in with cash at the highest levels:[256]

> [U]ltimately our goal, and certainly my personal goal in this endeavour, was to get to a point where – we have 1,000 high-risk patrons in our system, and that's defined by FINTRAC legislation. My goal was to eventually get to a point where literally all our biggest players, like in the top 1,000, would be on sourced-cash conditions. And it would take a while to get there because it's a building process, but ultimately that was the goal.

This evidence suggests that even as Mr. Mazure was repeatedly asking BCLC to "do more" to address suspicious transactions in the province's casinos, "doing more" was already a part of BCLC's plans. Based on Mr. Tottenham's evidence, the intention from the early stages of the cash conditions program had been that the program would

255 Exhibit 148, Tottenham #1, paras 160–61.

256 Evidence of D. Tottenham, Transcript, November 5, 2020, pp 3–4.

grow and expand to encompass greater and greater numbers of players. This does not necessarily mean that Mr. Mazure was wrong to seek additional action or that BCLC's efforts were necessarily adequate. As will be discussed in Chapter 14, he was not and they were not. The incremental nature of BCLC's approach, and the fact that it contemplated a patron buying-in with hundreds of thousands of dollars of suspicious cash before triggering a source-of-cash review, reveals an unreasonably high risk tolerance. I return to these matters later in this Report. However, the evidence regarding the steps, connected to source of funds, that BCLC was taking illustrates how the limits of GPEB's knowledge of precisely what BCLC was doing may have led to the dissonance observed in the correspondence between Mr. Mazure and Mr. Lightbody.

Casino Patron Interviews

As is made clear in the original and supplementary protocols developed by BCLC to formalize the cash conditions program, conducting interviews of patrons connected to suspicious transactions was integral to that program. A formal process for interviewing patrons was instituted in 2015 at the advent of the cash conditions program, the purpose of which was, at least in part, to determine the source of funds used in suspicious transactions in the province's casinos.[257] As with other aspects of the cash conditions program, patron interviews were accelerated following Mr. Kroeker's arrival at BCLC in the latter part of 2015.[258]

Several BCLC staff members, including Mr. Beeksma and Mr. Lee, gave evidence of how these interviews are conducted and the information BCLC has learned from them. Mr. Lee has conducted many of these interviews because he is fluent in Mandarin, the language spoken by most of the patrons interviewed.[259] Mr. Tottenham manages the program and receives a summary of each interview following its completion.[260]

These patron interviews are typically triggered by patron behaviour, such as evidence that patrons had obtained funds from cash facilitators.[261] Prior to an interview, investigators review the patron's history and prepare an interview plan.[262] Interviews are conducted by two BCLC investigators in a private setting at a casino.[263] As of September 2015, service provider personnel were not present for patron interviews.[264] Interviews are not recorded, but a summary of each interview is prepared by the responsible investigators, who

257 Evidence of S. Beeksma, Transcript, October 26, 2020, p 150; Exhibit 148, Tottenham #1, paras 89, 140; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 200–1.

258 Evidence of S. Beeksma, Transcript, October 26, 2020, p 151.

259 Exhibit 78, Beeksma #1, para 74.

260 Exhibit 148, Tottenham #1, para 145; Exhibit 87, S. Lee #1, para 61.

261 Exhibit 148, Tottenham #1, para 140.

262 Exhibit 87, S. Lee #1, para 61.

263 Ibid.

264 Evidence of D. Tottenham, Transcript, November 10, 2020, pp 189–90 and Transcript, November 4, 2020, pp 201–2; Exhibit 530, Affidavit #1 of Patrick Ennis, made on January 22, 2021 [Ennis #1], paras 68–70.

would also make recommendations for action, such as placing the interviewed patron on sourced-cash conditions.[265] A large volume of these summaries are in evidence before me.[266] Mr. Tottenham, as the manager responsible, reviews these recommendations and decides on the appropriate course of action.[267] Due to the sensitivity of the information contained in these summaries – and the potential risk to the patrons if the information was disseminated – the summaries are carefully protected by BCLC and not shared with service providers.[268] The interview summaries are also not disclosed to law enforcement, but where information relevant to law enforcement was disclosed, a synopsis is provided.[269]

May 2016 Direction to Service Providers

While service providers were excluded from patron interviews from September 2015 onward, beginning in May 2016, BCLC sought their assistance with a different mechanism for identifying the source of funds used in suspicious buy-ins.[270] At that time, BCLC provided service providers with a list of 34 patrons who had collectively been responsible for approximately 570 suspicious transaction reports and $10 million in cash buy-ins in the span of two months.[271]

Along with this list of patrons, BCLC provided service providers with a list of questions to be posed to these patrons at the time of any cash buy-in and directed service providers to provide BCLC with the responses provided by the patrons.[272] Service providers were asked only to document the patrons' answers and forward them to BCLC.[273] They were not asked to verify responses and the answers to these questions were not to influence whether a transaction would be reported as "unusual."[274] There was no expectation that buy-ins would be refused if the responses to these questions were not satisfactory or, it would seem, even implausible.[275]

Several completed questionnaires revealing these responses were entered into evidence during the Commission's hearings. These questionnaires, while not necessarily a representative sample, reveal that, in some instances, the responses provided by some of these patrons were, in the words of Mr. Beeksma, "not very helpful."[276] These documents indicate that responses to questions regarding the source of cash used in

265 Exhibit 148, Tottenham #1, para 145.

266 Exhibit 149, Affidavit #2 of Daryl Tottenham, sworn on October 30, 2020 [Tottenham #2]; Exhibit 78, Beeksma #1, exhibits R–Z, AA–BB.

267 Exhibit 148, Tottenham #1, para 145.

268 Evidence of R. Alderson, Transcript, September 10, 2021, pp 9–10; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 203–4.

269 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 203–4.

270 Evidence of D. Tottenham, Transcript, November 10, 2020, pp 6–12; Exhibit 148, Tottenham #1, para 147 and exhibit 49.

271 Exhibit 148, Tottenham #1, para 147 and exhibit 49.

272 Ibid; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 11–12.

273 Evidence of D. Tottenham, Transcript, November 10, 2020, pp 6–12.

274 Ibid, pp 11–16.

275 Ibid, p 14.

276 Evidence of S. Beeksma, Transcript, October 26, 2020, p 109.

buy-ins by these patrons included "from home savings," "it is my money," "China stock market," "from investing," "his own money," and "own savings."[277]

Questions about the value of these responses were raised during the examinations of Mr. Beeksma and Mr. Tottenham.[278] While it seems obvious that the responses such as those set out above provide virtually no value in identifying the source of funds to which they relate, Mr. Tottenham explained the intended purpose of these questionnaires and how the information obtained was used by BCLC:[279]

> Q: Would BCLC just accept this type of explanation, or did BCLC take steps to evaluate the plausibility or otherwise of the patron's explanation?
>
> A: I think that is illustrated when in 2016 in about June, July, when we were doing the [source of funds] under the [suspicious transaction report] reduction program, that … our core goal was to acquire information from where … the patrons said they were getting their cash from, do an assessment and then applying logic and common sense and all other factors that we could and make a determination. I think that was the basis of that program, that's how we approached it and that's what we did. Sometimes it was very, very evident the information we were getting was not solid, and we immediately moved to put them on sourced-cash conditions. Other times the information we were getting made sense. We continued to monitor those reports that we were getting as a result of that program, and ultimately, then, took an action once we felt it was necessary and required.

The absence of useful information about the source of cash used by these patrons did not immediately prevent them from using that cash to gamble in the province's casinos. The responses do seem, however, to have been used to assess whether the patrons should be permitted to make future buy-ins using similarly unsourced cash. I return to this topic in Chapter 14, where I consider the adequacy of this measure along with the other steps taken by BCLC.

Refusal of Cash Buy-Ins: October 7, 2016, Directive

Later in 2016, BCLC took a further step to address suspicious transactions by issuing a directive to service providers that included reference to an "expectation" that cash buy-ins connected to "suspicious behaviour" would be refused by the casino and steps taken to ensure the funds would not subsequently be accepted at another casino.[280]

277 Exhibit 85, A collection of 18 interview forms – Interview Format for Identified HRP Patrons.

278 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 108–10; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 13–16.

279 Evidence of D. Tottenham, Transcript, November 10, 2020, pp 140–41.

280 Exhibit 148, Tottenham #1, exhibit 4.

This directive included the following passage:[281]

> It is the expectation of BCLC (as per the BCLC [anti–money laundering] on line training course)[282] that when a patron is observed conducting a cash buy-in and suspicious behaviour is observed by staff, that buy-in should be refused and a[n unusual financial transaction] file should be created to document the attempted buy-in.

Mr. Tottenham expanded upon this expectation in an affidavit sworn for the purpose of giving evidence to the Commission:[283]

> In 2016, the AML [anti–money laundering] Unit also implemented a process to require Service Provider surveillance staff to review video surveillance prior to acceptance of suspicious cash buy-ins in small denominations. This was an attempt to try and determine the source of the funds the patron was presenting prior to buy-in. The AML Unit did not impose a threshold at which this process would be triggered, in the event that might deter Service Providers from looking at all the circumstances regardless of the amount of buy-in; rather, Service Providers were directed to use their judgment based on their experience when receiving a large cash buy-in with small bills.
>
> For clarity, this video review is not done "live." Rather, when a patron attends the cage with a large cash buy-in, the cage [staff] must call surveillance immediately and pause the buy-in process pending surveillance review. Surveillance must then review available video footage to attempt to follow the patron backwards.
>
> If it is observed that the patron acquired the funds under suspicious circumstances, such as by cash drop-off in the parking lot, the transaction must be refused. In addition, an entry must be made on iTrak indicating further large cash buy-ins from that patron must also be refused until the AML Unit has interviewed the patron. This is to ensure that the patron does not attend another BCLC casino and attempt to buy-in with the same cash. If the patron refuses to come in for an interview, they will be banned pending investigation from all BCLC casinos. An Unusual Financial Transaction ("UFT") report … would then be created by the Service Provider to document the incident for further investigation by the AML Unit and for potential [suspicious transaction] reporting.

281 Ibid.

282 Related content was included in BCLC's anti–money laundering online training course by October 2014, at which time the online training course indicated, "If a player arrives at the gaming facility with a large sum of cash and there are concerns about the circumstances leading up to the transaction, you must take enhanced measures and ask the source of their funds. If not satisfied with the response provided, you may choose to refuse the transaction": Exhibit 1045, Affidavit #3 of Cathy Cuglietta, made on August 31, 2021; Exhibit 530, Ennis #1, exhibit A.

283 Ibid, paras 40–42; see also Evidence of R. Kroeker, Transcript, January 26, 2021, pp 68–69; Exhibit 490, Kroeker #1, para 90; Evidence of P. Ennis, Transcript, February 4, 2021, pp 33, 35–36.

While this directive on its face may appear to contemplate that all transactions reported by the service provider as suspicious be refused, it is clear this was neither the expectation nor the practice.

Impact of BCLC Source-of-Funds Measures

It is impossible to identify the precise impact of each of the measures discussed above on large and suspicious cash transactions in the province's gaming facilities. However, it is clear from the evidence before the Commission that large and suspicious cash transactions began to drop significantly, in both total number and value, beginning shortly after the introduction of BCLC's cash conditions program and that they continued to decline steadily in the years that followed. It is also clear, however, that while such transactions declined progressively in the years that followed, the number and value of such transactions remained substantial until 2018.

Impact on Large and Suspicious Transactions

In his letter of May 8, 2017, Mr. Mazure acknowledged that the cumulative value of suspicious cash transactions reported to GPEB by service providers had declined by over $100 million between 2014 and 2016.[284] The belief that BCLC's cash conditions program had led to a significant, incremental decline in large and suspicious cash transactions was widely shared by witnesses involved in the province's gaming industry during this time period, including those affiliated with BCLC,[285] GPEB,[286] service providers,[287] and government.[288]

That conclusion is supported by data provided by BCLC regarding large cash transaction reports and suspicious transaction reports made to FINTRAC during this time period. These data indicate that the number of both types of reports for the highest value transactions declined following the introduction of the cash conditions program.[289] For suspicious cash transaction reports, these data, as reflected in Table 11.1 below, indicate that even as the total number of reports initially increased, the highest value reports declined significantly.[290] Over time, as the program expanded

284 Exhibit 505, Lightbody #1, exhibit 57.

285 Evidence of D. Tottenham, Transcript, November 4, 2020, p 191; Evidence of M. Hiller, Transcript, November 9, 2020, p 64; Exhibit 78, Beeksma #1, para 77; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 81–82, 147–48; Exhibit 87, S. Lee #1, paras 63, 73; Evidence of S. Lee, Transcript, October 27, 2020, pp 61–64; Exhibit 148, Tottenham #1, para 160; Exhibit 490, Kroeker #1, paras 107, 109–11 and exhibits 36–38; Evidence of R. Kroeker, Transcript, January 25, 2021, p 122 and Transcript, January 26, 2021, p 99; Exhibit 505, Lightbody #1, para 96; Evidence of J. Lightbody, Transcript, January 29, 2021, p 64; Exhibit 522, Desmarais #1, paras 55, 108, and exhibits 31, 79; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 94–95; Evidence of R. Alderson, Transcript, September 9, 2021, pp 141–42.

286 Exhibit 144, Ackles #3, para 59; Evidence of K. Ackles, Transcript, November 2, 2020, pp 34–36, 104–5, 143–45.

287 Evidence of P. Ennis, Transcript, February 3, 2021, p 103 and Transcript, February 4, 2021, pp 20–21.

288 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 130–31.

289 Exhibit 482, Cuglietta #1, exhibit A.

290 Ibid.

to encompass a greater number of individuals playing at lower levels,[291] the total number of reports began to decline as well:[292]

Table 11.1: Number of Suspicious Transaction Reports (STRs), 2014–2017

Time Period	Total Number of STRs	STRs $50,001–$100,000	STRs over $100,000
Jan–Jun 2014	733	207	270
Jul–Dec 2014	898	286	325
Jan–Jun 2015	954	312	319
Jul–Dec 2015	783	212	208
Jan–Jun 2016	1,008	165	115
Jul–Dec 2016	641	92	46
Jan–June2017	618	71	44
Jul–Dec 2017	427	87	32

Source: Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2020, exhibit A.

This decline is also reflected in the total value of transactions reported as suspicious transactions, which declined significantly after 2014, the last full year before the formal cash conditions program was implemented.[293]

Table 11.2: Value of Suspicious Transaction Reports (STRs), 2014–2017

Year	Total Value of STRs[294]
2014	$195,282,332
2015	$183,841,853
2016	$79,458,118
2017	$45,300,463

Source: Exhibit 482, Affidavit #2 of Cathy Cuglietta, sworn on March 8, 2021, exhibit A.

Similar, but less pronounced, trends can be observed in BCLC's large cash transaction reporting, which include all cash transactions of $10,000 or more, regardless of whether they are identified as suspicious. Given that BCLC's cash conditions program focused on the most suspicious transactions and highest risk patrons, it is unsurprising that the impact of these efforts would be most evident from suspicious transaction reporting

291 Exhibit 148, Tottenham #1, paras 160–61.

292 Exhibit 482, Cuglietta #1, exhibit A.

293 Exhibit 784, Affidavit #2 of Cathy Cuglietta, sworn on March 8, 2021 [Cuglietta #2], exhibit A. Note: "Cathy Cuglietta" and "Caterina Cuglietta" refer to the same witness.

294 These figures include e–gaming and "external request" suspicious transaction reports.

data. As was the case for suspicious transactions, large cash transaction reporting data, as reflected in Table 11.3 below, indicate that even as the total number of large cash transaction reports initially increased, the highest value reports declined significantly:[295]

Table 11.3: Number of Large Cash Transaction Reports (LCTRs), 2014–2017

Time Period	Total LCTRs	LCTRs $50,001–$100,000	LCTRs over $100,000
Jan–Jun 2014	17,400	1,226	1,013
Jul–Dec 2014	17,320	1,176	868
Jan–Jun 2015	17,739	1208	793
Jul–Dec 2015	17,917	907	669
Jan–Jun 2016	19,479	796	470
Jul–Dec 2016	18,117	313	192
Jan–Jun 2017	18,142	221	67
Jul–Dec 2017	18,477	231	72

Source: Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2020, exhibit A

As with suspicious transaction reporting, the impact of BCLC's efforts is also evident in the cumulative value of transactions reported as large cash transactions between 2014 and 2017:[296]

Table 11.4: Value of Large Cash Transaction Reports (LCTRs), 2014–2017

Year	Total Value of LCTRs
2014	$1,184,603,543
2015	$968,145,428
2016	$739,620,654
2017	$514,171,075

Source: Exhibit 482, Affidavit #2 of Cathy Cuglietta, sworn on March 8, 2021, exhibit A.

Again, it is not possible to identify with precision the extent to which these declines in large and suspicious transactions were the result of each – or any – of the measures discussed above. It is possible that these declines, to some extent, were the result of dynamics entirely outside the control of actors in this province's gaming industry. Mr. Lightbody, Mr. Desmarais, and Mr. Kroeker, for example, all candidly acknowledged that these declines – and those that followed in subsequent years – took place, at least in part, during a period of time in which table games play by Chinese nationals was in

295 Exhibit 482, Cuglietta #1, exhibit A.

296 Exhibit 784, Cuglietta #2, exhibit A.

decline globally.[297] It seems likely that the effects of global trends like this one would have had some impact on this province's gaming industry.

While it is not possible to determine precisely the impact the measures introduced by BCLC had on large and suspicious transactions, based on the evidence before me, I am satisfied that these measures did contribute to the reductions in these transactions identified above. This is so for several reasons. First, there is an inescapable logic that, in an environment in which casino patrons are frequently buying-in with extremely large quantities of suspicious cash, a requirement that prohibits some of those patrons from doing so will reduce the frequency and cumulative value of such transactions. Second, there is a clear correlation in time between the expansion of the cash conditions program and the decline of suspicious transactions. The decline in suspicious transactions commenced at precisely the time that the formal cash conditions program was introduced and continued in the years that followed, apace with the expansion of the program. Third, the decline in suspicious transactions is concentrated among those transactions targeted by BCLC at different stages of the program. The data set out above reveal that initially, the decline in suspicious transactions (as well as large cash transactions) was observed predominantly in transactions of $100,000 or more. Given Mr. Tottenham's evidence that the program began by focusing on patrons engaged in the highest value transactions (following those identified by the RCMP as being connected to the E-Pirate investigation), this suggests that these declines were concentrated among those patrons who were the focus of BCLC's efforts. As time passed and the program expanded to patrons engaged in lower levels of play, suspicious transactions at lower levels began to decline as well, again supporting the conclusion that the cash conditions program was a significant driver of this decline. Finally, as discussed below, while BCLC's overall table games revenue declined during this period, it was far outpaced by the decline in suspicious transactions. Between 2014 and 2017, BCLC's overall table games revenue declined by approximately 7 percent. During this same period, total suspicious transactions fell by approximately 36 percent, the value of such transactions fell by approximately 77 percent, and the number of STRs of $100,000 or more fell by approximately 87 percent, suggesting that something during this time period was affecting suspicious transactions – and particularly the largest suspicious transactions – in a manner distinct from table games generally. Of course, ultimately, the link between the decline in suspicious transactions and the cash conditions program established by the data alone is correlational, not causal, but for the reasons outlined above, I am satisfied that the program did play a part in this decline.

The apparent impacts of the measures discussed above were not felt equally among Lower Mainland casinos. The data in evidence before me indicate that, prior to the implementation of the cash conditions program, the number of large and suspicious transaction reports generated by the River Rock Casino – and the value of the transactions giving rise to those reports – was substantially greater than those generated

297 Evidence of R. Kroeker, Transcript, January 26, 2021, p 121; Evidence of J. Lightbody, Transcript, January 29, 2021, pp 64–65; Evidence of B. Desmarais, Transcript, February 2, 2021, p 94; Exhibit 490, Kroeker #1, para 230.

by other casinos in the region, including other casinos operated by Great Canadian as well as those operated by other service providers.[298] Consequently, when large and suspicious transactions began to decline following the introduction of BCLC's cash conditions program, these declines were most pronounced at the River Rock.[299] As was the case for the province's casinos generally, these declines are observable in the value and number of suspicious transactions and the value of large cash transactions, while the total number of large cash transactions remained relatively flat.[300]

Impact on Casino Revenue and Relationships with Service Providers

The cash conditions program and other measures imposed by BCLC to evaluate the source of funds used in casino transactions and reduce suspicious transactions at this time was also correlated to changes in revenue and, relatedly, relationships between BCLC and service providers, particularly Great Canadian.

Again, as was the case with reporting, it is difficult to attribute all of this decline to the implementation of BCLC's cash conditions program. However, financial data before the Commission, including data provided by BCLC and found in BCLC's annual reports, does indicate a correlation in time between these changes and a decline in casino table game revenue. A range of witnesses from both BCLC[301] and Great Canadian[302] attributed this decline to the introduction of the cash conditions program.

Table 11.5, compiled from data obtained from BCLC, sets out annual revenue for BCLC as a whole, as well as that derived from casino gaming and table games specifically beginning in 2014 (the last year prior to the implementation of the formal cash conditions program) and ending in 2017 (the last year prior to the implementation of new source-of-funds measures in response to Dr. German's recommendation):

Table 11.5: Annual BCLC Revenue, 2014–2017

Year	BCLC Total Gaming Revenue	BCLC Casino Revenue	BCLC Casino Table Games Revenue
2014	$2,199,888,811.50	$1,715,659,976.61	$552,298,271.88
2015	$2,320,955,600.66	$1,753,783,201.60	$547,846,607.14
2016	$2,374,235,661.38	$1,799,626,701.64	$519,231,380.60
2017	$2,465,003,394.96	$1,877,201,427.69	$512,476,847.13

Source: Exhibit 785, Affidavit #1 of Richard Block, affirmed on March 9, 2021, exhibit A.

298 Exhibit 482, Cuglietta #1, exhibit A.

299 Ibid.

300 Ibid.

301 Exhibit 148, Tottenham #1, para 162; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 192–93 and Transcript, November 10, 2020, pp 103–9; Exhibit 490, Kroeker #1, paras 108–9; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 122–23.

302 Evidence of P. Ennis, Transcript, February 3, 2021, pp 103–4; Evidence of T. Doyle, Transcript, February 10, 2021, pp 97–98; Exhibit 559, Affidavit #1 of Walter Soo, made on February 1, 2021 [Soo #1], para 92.

Data the Commission obtained from BCLC also provide insight into trends in revenue at the five major Lower Mainland casinos as these measures were implemented. Revenue data for these five facilities (rounded to the nearest dollar) for the same years are set out in Table 11.6 below:

Table 11.6: Annual Revenue for Major Lower Mainland Casinos, 2014–2017

Year	Hard Rock / Boulevard	Grand Villa	Starlight	River Rock	Parq / Edgewater
2014	$123,410,821	$193,491,767	$105,389,182	$416,917,884	$140,715,164
2015	$133,105,863	$204,073,275	$116,887,610	$375,795,284	$159,551,177
2016	$149,332,256	$202,752,704	$124,745,678	$339,895,294	$165,909,895
2017	$158,941,195	$215,377,969	$127,355,250	$331,910,492	$175,189,007

Source: Exhibit 785, Affidavit #1 of Richard Block, affirmed on March 9, 2021, exhibit A.

These data demonstrate that while table games revenue generated by BCLC declined each year as the cash conditions program expanded prior to 2018, this decline was not substantial enough to prevent BCLC's overall revenue, or even its revenue from casino gaming, from increasing every year. Further, the revenue data also demonstrate the extent to which the decline in revenue disproportionately impacted the River Rock Casino. Three of the five major Lower Mainland casinos experienced growth in revenue in each of these years, while a fourth experienced growth in all but one. Only the River Rock saw revenue decline in each of these years.

Given the foregoing, it is perhaps not surprising that concern about these measures emanated largely, though not exclusively, from Great Canadian, which operates the River Rock. Mr. Lightbody, for example, gave evidence of an exchange he had with the former CEO of Great Canadian regarding concerns about interactions between BCLC investigators and VIP players at the River Rock as the cash conditions program was being rolled out.[303] Other witnesses gave evidence about concerns expressed by Great Canadian employees regarding the implementation of this program and, in particular, the risks posed to the relationship between Great Canadian and its VIP players.[304] As indicated above, Great Canadian was not the exclusive source of these concerns. There is one example in evidence of a representative of the Parq Vancouver casino raising concerns about the impact of these measures.[305] I did not hear evidence of representatives of Gateway Casinos & Entertainment Limited expressing concern about the cash conditions program or related measures at this time.

303 Exhibit 505, Lightbody #1, para 95 and exhibit 30; Evidence of J. Lightbody, Transcript, January 29, 2021, p 127.

304 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 143–44; Exhibit 530, Ennis #1, para 71; Evidence of P. Ennis, Transcript, February 3, 2021, pp 104–10; Evidence of D. Tottenham, Transcript, November 5, 2020, pp 6–8 and Transcript, November 10, 2020, pp 94–96; Exhibit 148, Tottenham #1, paras 83, 227.

305 Exhibit 505, Lightbody #1, para 94 and exhibit 29; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 141–42 and Transcript, February 2, 2021, pp 109–11.

While Great Canadian clearly had some reservations about the cash conditions program and the impact of that program on its relationship with some of its most valuable patrons, there is no evidence before the Commission that Great Canadian, or any other gaming service provider, took any steps designed to intentionally frustrate BCLC's efforts in this regard. Several witnesses gave evidence indicating that, despite any reservations about these measures and their impact on revenue or relationships with patrons, service providers were largely compliant in implementing the program.[306]

BCLC's Actions Following Mr. de Jong's Letter of October 1, 2015, and Subsequent Letters from Mr. Mazure

The totality of BCLC's efforts to respond to suspicious transactions in the province's casinos in this and other relevant time periods will be assessed in Chapter 14 of this Report. However, having discussed the letter written by Mr. de Jong in October 2015, the letters written by Mr. Mazure between 2015 and 2017, and the actions taken by BCLC following Mr. de Jong's letter and during the time that Mr. Lightbody was corresponding with Mr. Mazure, some comment on the nature of BCLC's response is warranted at this stage. While it is clear that BCLC did take action that had the effect of reducing the prevalence of suspicious cash in the province's casinos, when viewed in the light of the direction received from the sitting minister responsible for gaming and the advice and recommendations received from the general manager of GPEB, it is clear that BCLC's action was wanting.

I recognize that the directions included in Mr. de Jong's letter lacked specifics. Based on his evidence, it seems that this was by design. Mr. de Jong made clear in his testimony that, in his view, there was a need "to go beyond what was taking place presently" and that the "status quo level of scrutiny" was not adequate, but that he was hesitant to prescribe precisely what further steps should be taken.[307] Given the nature of his direction, it is not possible to point to a precise measure that BCLC was directed, but failed, to implement.

I do not accept, however, that this limited specificity translates into limited expectations. In my view, the magnitude of the efforts required in response to this direction must be considered in the context of its nature and source. In his evidence, Mr. de Jong indicated that, aside from annual mandate letters, the letter of October 1, 2015, was the *only* direction he issued to BCLC during the entirety of his tenure as minister responsible for gaming.[308] That Mr. de Jong, a senior cabinet minister responsible for ultimate oversight of the gaming industry and the representative of BCLC's sole shareholder, saw fit to write directly to the chair of BCLC's board raising concerns about a specific area of its operations should have immediately impressed

306 Exhibit 490, Kroeker #1, paras 96, 108; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 134, 144; Exhibit 530, Ennis #1, para 71; Evidence of P. Ennis, Transcript, February 3, 2021, p 110; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 94–96 and Transcript, November 4, 2020, pp 190–91.

307 Evidence of M. de Jong, Transcript, April 23, 2021, p 88.

308 Ibid, p 169.

upon BCLC that it was not meeting the expectations of the minister and that decisive corrective action was required. That Mr. de Jong found it necessary to write such a letter, outside of the normal cycle of mandate letters, only *once* during his tenure should have further impressed upon BCLC the extent to which its efforts were falling short and the need for urgency in rectifying those shortcomings.

This interpretation is consistent with Mr. de Jong's evidence of his own expectations. As indicated above, Mr. de Jong testified that his expectation was that *any* transaction that generated a "suspicious cash transaction report" should have "trigger[ed] some additional investigation or activity."[309] I acknowledge that there is no evidence before me that Mr. de Jong actually communicated this expectation to BCLC, but in my view, he should not have had to. The fact that he felt the need to issue a direction to BCLC of the sort that he did ought to have made clear the magnitude, if not precisely the kind, of actions that were necessary.

The nature of the response called for in response to Mr. de Jong's letter was reinforced repeatedly by Mr. Mazure. As discussed above, Mr. de Jong, in his October 2015 letter, explicitly directed BCLC to take guidance from Mr. Mazure's letter of August 7, 2015, and from "subsequent actions or standards." Mr. de Jong reiterated in his evidence that the purpose of this letter was, in part, to "urge upon the Lottery Corporation … this notion of working with … GPEB … to settle upon processes."[310]

In the approximate year and a half that followed, Mr. Mazure repeatedly reiterated to Mr. Lightbody that the actions taken by BCLC following Mr. de Jong's letter were not meeting his expectations. Despite Mr. de Jong's direction that BCLC take guidance from precisely this sort of communication from GPEB, Mr. Lightbody consistently responded by insisting that the measures BCLC had already put in place were adequate. While Mr. Mazure's letters did not always include recommendations for specific actions that BCLC should take, in his July 2016 letter, Mr. Mazure offered two examples of the types of measures he thought BCLC should implement. These included "a source of funds questionnaire and a threshold amount over which BCLC would require service providers to refuse to accept unsourced funds, or a maximum number of instances where unsourced funds would be accepted from a patron before refusal."[311]

BCLC would have known at this time that it had not implemented measures of the sort referred to in this letter. This letter should have made BCLC aware that it was not meeting the expectations of Mr. Mazure and was at risk of failing to comply with Mr. de Jong's direction regarding future "actions or standards" from GPEB. Instead of meaningfully engaging in dialogue with GPEB about these actions, however, Mr. Lightbody instead wrote to Mr. Mazure a few weeks later, again asserting that the measures already in place were adequate:[312]

309 Ibid, p 152.

310 Ibid.

311 Exhibit 505, Lightbody #1, exhibit 55.

312 Ibid, exhibit 56.

> I appreciate your suggestion that BCLC ensure its new proposals are conducted within a risk based anti–money laundering framework, and specifically that on a risk basis source of wealth and source of funds inquiries should form part of that framework. I can confirm that source of wealth and source of funds inquiries are in fact incorporated into the BCLC anti–money laundering program and will apply to the proposals when implemented along with all the other program elements aimed at countering money laundering.

Mr. Mazure alluded to his examples of source-of-funds initiatives again in his letter of May 8, 2017,[313] which was met with a similar response in Mr. Lightbody's letter of May 12, 2017.[314]

Based on all the evidence, I conclude that the actions taken by BCLC in response to Mr. de Jong's letter of October 1, 2015, and Mr. Mazure's letters that followed, were wanting. I acknowledge that Mr. de Jong's letter lacked specifics, and his evidence before the Commission indicated some level of satisfaction with the results achieved after it was sent.[315] While Mr. de Jong may have been encouraged by the decline in suspicious transactions observed in 2016 and 2017, vast quantities of suspicious cash continued to be accepted in British Columbia casinos in these years. Casinos accepted this cash even as BCLC resisted taking the further action urged upon it by Mr. Mazure, despite the clear direction from Mr. de Jong that BCLC be guided by his communications. Given Mr. de Jong's letter, Mr. Mazure's subsequent correspondence, and the continued rate at which suspicious transactions were being accepted in the province's casinos, it should have been clear to BCLC that far more decisive action was required.

Great Canadian's Efforts to Address Cash Facilitation

Since at least 2014, Great Canadian had been monitoring the activities of Mr. Jin's cash facilitation network with a view to assisting BCLC and law enforcement in addressing that activity.[316] By early 2016, Great Canadian understood that law enforcement had linked Mr. Jin's cash facilitation network to criminal activity and decided that there was a need to stop those activities despite the potential impact it would have on revenue.[317]

On May 30, 2016, Mr. Ennis sent an email to Great Canadian staff directing them to refuse any cash provided to casino patrons by Mr. Jin or his associates.[318] Mr. Ennis testified that he issued the directive after learning that Mr. Jin and his associates were

313 Ibid, exhibit 57.

314 Ibid, exhibit 58.

315 Evidence of M. de Jong, Transcript, April 23, 2021, pp 156–57

316 Exhibit 530, Ennis #1, para 57 and exhibit O.

317 Evidence of P. Ennis, Transcript, February 3, 2021, pp 147–48; Evidence of T. Doyle, February 10, 2021, pp 14–16.

318 Exhibit 530, Ennis #1, para 63 and exhibit R.

linked to possible criminal activity and that "the only responsible thing for us to do was … to start refusing [the cash]."[319] He stated:

> [I]n April when I was promoted to executive director, I felt that it was incumbent on me to take some action because nobody else was. I mean, we kept reporting this stuff hoping the police would have an intervention and that this activity would cease at our casino. It didn't, so I stepped in and intervened.
>
> …
>
> I had a meeting with obviously our operations lead, Terrance Doyle, who was the [chief operating officer], and he was on side with the recommendation as well. Obviously, it would have the potential to impact revenue. He did not push back on my recommendation and told me I should go ahead with it.[320]

Likewise, Mr. Doyle testified that he "wanted nothing to do" with people that they knew had criminal affiliations and "made it very clear … that we should not be dealing with these customers if we knew they had any type of nefarious intentions."[321]

I see the directive issued by Mr. Ennis as the type of proactive step that could – and should – have been taken by BCLC and others in the gaming industry to stem the flow of suspicious cash into BC casinos much earlier. Despite the potential impact on revenue, a principled decision was finally made to stop taking cash associated with criminal activity. In my view, the ease with which Great Canadian implemented this simple measure demonstrates that the failure to address the huge volume of suspicious cash laundered through BC casinos from 2012 to 2015 was largely a failure of will.

I return to this issue in Chapter 14.

2016 Chip Swap

Beginning in 2014, BCLC investigators became aware of multiple incidents in which patrons would buy-in for large amounts at the River Rock Casino and leave without playing, taking the casino chips with them.[322] By April 2015, the River Rock's "chip liability" – the amount of chips that cannot be accounted for and have likely been

319 Evidence of P. Ennis, Transcript, February 3, 2021, p 148–49.

320 Ibid, pp 147–48

321 Evidence of T. Doyle, Transcript, February 10, 2021, pp 15–16.

322 Exhibit 522, Desmarais #1, para 97.

taken off site by patrons – had grown to approximately $12 million.[323] A chip liability at this level, well above the River Rock's norm of $1–2 million,[324] was a concern to both Great Canadian and to BCLC.[325] Great Canadian's concern was due in part to the financial implications of an elevated chip liability,[326] but it is clear that both organizations were also concerned about the associated money laundering risks, including the risk that the chips could be used as criminal currency or "stored value instruments."[327] Mr. Desmarais described the nature of the risk posed by the chip liability in an email to Mr. Alderson dated July 14, 2015:[328]

> I somewhat disagree that BCLC's exposure in this matter is simply reputational. I believe there is a bigger issue and that is we and the [service provider] are responsible for millions of dollars of what could be criminal stored value instruments which strikes at the heart of our corporate social responsibilities as well as what some might perceive as [a money laundering] enablement issue. I agree there is no direct evidence that an unauthorized casino is operating with [River Rock Casino] chips, that was a theory advanced as a potential reason why such large liability exists; that is infinitely more palatable (and treatable) than the alternative, and that is the chips are being used as a [stored value instrument] for criminal purposes. I acknowledge chip use would be the first time I am aware of in this manner (I have investigated precious gems, bearer bonds, gold, etc. in the past) but chips, in my view, are the ideal instrument for this purpose.

In order to address the risk that the chips might be used for criminal purposes, BCLC and Great Canadian planned a "chip swap" to be carried out on September 8, 2015.[329] The planned chip swap involved providing notice to patrons that all River Rock $5,000 chips were being recalled by the casino. Patrons in possession of $5,000 chips would be able to return those chips by a specified date, following which they would be rendered

323 Exhibit 490, Kroeker #1, paras 70–71; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 109–10; Exhibit 522, Desmarais #1, para 98.

324 Exhibit 490, Kroeker #1, paras 70–71; Evidence of R. Kroeker, Transcript, January 25, 2021, p 110.

325 Exhibit 490, Kroeker #1, para 69; Evidence of R. Kroeker, Transcript, January 25, 2021, p 109; Exhibit 522, Desmarais #1, para 99.

326 Exhibit 490, Kroeker #1, para 69; Evidence of R. Kroeker, Transcript, January 25, 2021, p 109.

327 Evidence of R. Kroeker, Transcript, January 25, 2021, p 109; Exhibit 522, Desmarais #1, para 99 and exhibit 76; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 148–51.

328 Exhibit 522, Desmarais #1, exhibit 76.

329 Exhibit 74, Overview Report: 2016 River Rock Casino Chip Swap [OR: Chip Swap], paras 9–10 and Appendix A, January 8, 2016 BCLC Information Note: River Rock Casino Chip Swap.

valueless. At the same time, the River Rock would issue new $5,000 chips, which would be the only valid chips at that value after the date on which the old chips became valueless.[330]

Given the suspicion that many of the missing chips had been removed from the casino for illegitimate purposes, the chip swap was viewed as an investigative opportunity, in addition to a solution to the chip liability.[331] Accordingly, returns of outstanding chips were permitted only for a short period of time to prevent patrons with large amounts of chips from returning them gradually in small quantities to avoid detection, and arrangements were made for BCLC investigators to interview those patrons returning chips in order to ascertain where the chips had come from.[332] Where the casino had no record of the chips having been obtained legitimately, they would not be honoured.[333]

On September 7, 2015, BCLC received notice from GPEB that police had requested that the chip swap not be carried out on the following day as planned.[334] This request from law enforcement was the result of a conversation between Mr. Meilleur and a Vancouver Police Department inspector who was involved in the E-Pirate investigation.[335] Mr. Meilleur had advised the officer of the chip swap, ultimately leading to the request that it not proceed.[336]

The chip swap was eventually rescheduled and carried out on January 18, 2016.[337] By this time, the River Rock chip liability had fallen considerably to under $5 million, suggesting that the delay had permitted the return of a substantial amount of the outstanding chips in small increments.[338] Mr. Desmarais described the delay in the execution of the chip swap and the lost opportunity to interview those who would

330 Evidence of R. Kroeker, Transcript, January 25, 2021, pp 110–11; Exhibit 490, Kroeker #1, paras 72–73; Exhibit 74, OR: Chip Swap, Appendix A, January 8, 2016 BCLC Information Note: River Rock Casino Chip Swap, and Appendix G, July 2015 email, re RRCR Chip Swap.

331 Exhibit 490, Kroeker #1, para 72; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 110–11; Exhibit 522, Desmarais #1, para 106.

332 Evidence of R. Kroeker, Transcript, January 25, 2021, pp 110–11; Exhibit 522, Desmarais #1, paras 101–2; Exhibit 74, OR: Chip Swap, Appendix A, January 8, 2016 BCLC Information Note: River Rock Casino Chip Swap.

333 Exhibit 490, Kroeker #1, para 72.

334 Ibid, paras 75; Exhibit 522, Desmarais #1, para 104 and exhibit 77; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 151–52; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 109–10; Evidence of D. Tottenham, Transcript, November 4, 2020, p 184; Exhibit 505, Lightbody #1, para 164.

335 Exhibit 587, Meilleur #1, paras 100–1; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 109–10.

336 Evidence of L. Meilleur, Transcript, February 12, 2021, pp 109–10.

337 Exhibit 74, OR: Chip Swap, paras 2 and 10.

338 Ibid, para 12 and Appendix A, January 8, 2016 BCLC Information Note: River Rock Casino Chip Swap; Exhibit 490, Kroeker #1, para 77; Evidence of R. Kroeker, Transcript, January 26, 2021, p 97; Exhibit 522, Desmarais #1, para 105.

otherwise have been forced to return large quantities of chips on short notice as the loss of an "extraordinary investigative opportunity."[339]

It is clear from the evidence of Mr. Desmarais and other current and former BCLC staff members that the delayed chip swap was a source of disappointment for BCLC.[340] In their evidence, both Mr. Desmarais and Mr. Kroeker suggested that law enforcement may not have received complete or accurate information and that, if they had, they may not have requested that the chip swap be delayed, and the investigative opportunity lamented by Mr. Desmarais may not have been lost.[341]

It is impossible to know with certainty whether law enforcement may have taken a different view of the chip swap if provided additional or different information. If the investigative opportunity presented by the exercise was as promising as was suggested by Mr. Desmarais, BCLC's regret over the loss of that opportunity is understandable. This does not mean, however, that the delay was not necessary or that any of the actions leading to the delay were ill-conceived. Given his awareness of the ongoing police investigation, Mr. Meilleur's decision to advise law enforcement of the chip swap seems entirely reasonable. Ideally, Mr. Meilleur would have made his counterparts at BCLC aware of his intention to do so, and perhaps involved them in his conversations with law enforcement directly. However, given the extreme sensitivity of the investigation and the assurances Mr. Meilleur had given that he would hold the information provided by Mr. Chrustie in confidence, it may not have been open to him to do so, despite his knowledge that some BCLC employees were also aware of the investigation. It is possible that Mr. Meilleur did not provide law enforcement with a complete or entirely accurate explanation of the planned chip swap, but there is no basis to believe he did not endeavour to do so. Having raised this issue with police and having received the request of law enforcement that the chip swap be delayed, forwarding that request to BCLC was clearly the appropriate step. Similarly, having learned of this request, BCLC made the appropriate decision to delay the chip swap in accordance with the wishes of law enforcement.

I agree with the evidence of Mr. Kroeker and Mr. Desmarais that the elevated River Rock chip liability posed a money laundering related risk. BCLC and Great Canadian should be commended for planning and

339 Exhibit 522, Desmarais #1, para 106.

340 Ibid; Evidence of R. Kroeker, Transcript, January 26, 2021, pp 96–97; Exhibit 505, Lightbody #1, para 165.

341 Evidence of R. Kroeker, Transcript, January 26, 2021, pp 188–89; Evidence of B. Desmarais, Transcript, February 2, 2021, p 59.

> eventually executing the chip swap. I accept that the delay in its execution represented a lost investigative opportunity, but I am unable to find fault in the actions of anyone involved in the events leading to that decision. I accept that Mr. Meilleur acted in good faith and to the best of his abilities in respect of this matter, as did his counterparts in law enforcement and BCLC.

2016 Meyers Norris Penney LLP Report

Among the measures recommended to Mr. de Jong during the September 2015 briefing discussed above was a "strategic external review of BCLC reporting of suspicious and large cash transactions," focused on "gaming service provider and BCLC processes on customer due diligence specifically on source of funds and suspicious currency transactions."[342]

GPEB proceeded with this recommendation, engaging MNP to carry out a review that resulted in a report dated July 26, 2016.[343] The discussion that follows addresses the nature and purpose of the review, the process by which it was carried out, the results as articulated in the report, and the actions and events that followed the report.

Purpose of the MNP Review

Mr. Mazure described the purpose of the review as being "to inform further options about how to address the issue of suspicious cash in casinos, and to further mitigate the risk of money laundering and proceeds of crime in casinos."[344] While this articulation of the purpose of the review is not inaccurate, it is apparent that the review was also motivated by GPEB's perception that BCLC was unwilling to implement adequate measures to address the issue of suspicious cash and suspicious transactions in the province's casinos. According to Mr. Meilleur the decision to engage an external firm – despite GPEB's internal audit capacity – was motivated by strain in the relationship between GPEB and BCLC.[345] BCLC played no role in setting the terms of this review and may have not received notice of GPEB's intention to conduct it until MNP had already been engaged.[346]

The extent to which this review was motivated by concerns about BCLC's action (or inaction) as opposed to that of the industry more broadly (including GPEB itself) is further confirmed in a description of the proposed review provided to Ms. Wenezenki-Yolland by Mr. Meilleur on August 31, 2015:[347]

342 Exhibit 552, MOF Strategy, p 9.

343 Exhibit 73, Overview Report: Past Reports and Recommendations Related to the Gaming Sector in British Columbia [OR: Past Gaming Reports], Appendix J, MNP LLP, *British Columbia Gaming Policy Enforcement Branch: AML Report* (July 26, 2016).

344 Exhibit 541, Mazure #1, para 195.

345 Exhibit 587, Meilleur #1, para 120.

346 Ibid, exhibits UU, VV.

347 Ibid, exhibit UU.

> The Province of British Columbia wishes to retain a firm to conduct an external review by examining the effectiveness of the British Columbia Lottery Corporation's (BCLC) customer due diligence framework, generally in contracted gaming facilities, and specifically with focus on one particular facility. For further clarity, the scope of this engagement will include an assessment of the overall sufficiency of the BCLC anti–money laundering customer due diligence framework, as applied to service providers, as well as a specific performance audit of the policy as it is applied to a specific facility of a specified period of time, namely four (4) years. The intent of the province in this engagement is to understand the overall sufficiency, functioning of the customer due diligence and suspicious currency transaction framework applied by BCLC in preventing money laundering activities in gaming facilities operated under the authority of the province. The proponent is expected to both consider the current state, and make recommendations as to a future state that would enhance the integrity of gaming in British Columbia through improved policy and procedures designed to prevent money laundering activities. Given that both BCLC and the province are actively engaged in audit and assurance projects in the gaming sector, this review will include an examination of whether the current audit and assurance work is effective in capturing the province's concern with regards to money laundering or other unlawful activities in gaming facilities.

Based on this description and the evidence referred to above, it is apparent that GPEB viewed BCLC as the subject of this review, and not as a partner in it. In my view, this approach posed a risk of failing to identify measures that could be taken by GPEB and government to address suspicious transactions in casinos.

It is worth noting in this discussion of the purpose of this review that there was, at least initially, some skepticism as to its utility. Ms. Wenezenki-Yolland, who gave evidence that she held a general concern during this time period that the efforts of GPEB featured an overabundance of analysis at the expense of concrete action,[348] expressed initial reservations of this nature about the MNP review in an email to Mr. Meilleur dated August 31, 2015:[349]

> This should form part of a discussion with John [Mazure] on his return and would be one of the options. One consideration – of this whether to undertake more review work is whether it would actually provide any new information beyond that you have already obtained through some of the work you have already done on [anti–money laundering]. Or do we just need to take some of the actions that have already been identified. What would the best investment of our and BCLC resources? Doing more review or implementing actions?

348 Exhibit 922, Wenezenki-Yolland #1, para 117; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 120–21.

349 Exhibit 587, Meilleur #1, exhibit UU.

As GPEB ultimately proceeded with the review, it is evident that it did not take Ms. Wenezenki-Yolland up on her suggestion.

Nature of the Review and the Review Process

The nature of the review conducted by MNP is articulated in the terms of reference for the review found at paragraph 1.1 of the report:[350]

> MNP was engaged by British Columbia's ("BC") Gaming Policy and Enforcement Branch ("GPEB") on September 8, 2015. MNP was directed to work directly with senior GPEB managers to:
>
> a. Analyze current practices in respect of source of funds, source of wealth, handling of cash, use of cash alternatives and overall Customer Due Diligence ("CDD") in gaming facilities compared to financial institutions;
>
> b. Analyze best practices in the gaming sector in relation to 'know your customer' frameworks, particularly in respect of the regulatory framework in British Columbia, as set out in the Gaming Control Act [S.B.C. 2002, c. 14];
>
> c. Assess British Columbia Lottery Corporation ("BCLC's") Customer Due Diligence ("CDD") regime and overall compliance with the above-noted practices;
>
> d. Receive information from the General Manager (as defined in the Gaming Control Act) or delegate regarding certain transactions, and assess this information in the context of compliance with a, and b above;
>
> e. Identify immediate near term actions to be taken in order to address any gaps and provide recommendations on longer term new solutions or enhancements to current practices; and
>
> f. Provide any other recommendations to address any gaps identified in the above-described analysis.

The report goes on to state that the "engagement is not an audit and did not include any control testing."[351]

The focus of the review was limited to the time period of September 1, 2013, to August 31, 2015.[352] This is significant because, as discussed above, BCLC had only just begun

350 Exhibit 73, OR: Past Gaming Reports, Appendix J, MNP LLP, *British Columbia Gaming Policy Enforcement Branch: AML Report* (July 26, 2016), para 1.1.

351 Ibid, para 1.2.

352 Ibid, para 3.5.

to implement its formal cash conditions program and related measures beginning in August 2015. As such, the results of the review would not reflect the impact of those measures.

The process followed in conducting this review is also set out in the report.[353] The activities undertaken by MNP included the review of relevant documents and data extracts, the review of relevant legislation and regulations, and interviews of BCLC and River Rock Casino employees. The report does not suggest that any GPEB employees were interviewed as part of the review but indicates that many of the interviews of BCLC and River Rock employees were conducted in conjunction with GPEB staff members,[354] further underscoring the distinct roles of BCLC and GPEB in this review.

Results and Recommendations

The results of the review conducted by MNP – and the recommendations arising from those results – are set out in the July 2016 report.

Despite the focus of the review on the processes of BCLC, the report contained recommendations directed at both GPEB and BCLC.[355] The report in its entirety is in evidence before the Commission.[356] I will focus my comments on the report's findings and recommendations in three areas – BCLC's compliance with FINTRAC requirements, BCLC's risk assessment and enhanced due diligence measures for high-risk patrons, and the recommendation to impose a threshold amount over which unsourced funds would be refused.

BCLC's Compliance with FINTRAC Requirements

The MNP report contained a number of conclusions and recommendations related to BCLC's compliance with FINTRAC requirements.[357] While the report made clear that the review did not involve an audit of processes surrounding reporting requirements or of the accuracy or timeliness of reports submitted to FINTRAC,[358] it concluded that it "did not observe anything material to suggest that the compliance program in effect at BCLC and [River Rock Casino Resort was] not functionally suitable to meet obligations" under the federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17 (*PCMLTFA*) and its regulations.[359] The report also concluded that BCLC's customer due diligence process met federal regulatory requirements for standard-risk patrons,[360] and that processes were in place to track instances of cash transactions requiring the completion and filing of reports.[361]

353 Ibid, paras 3.0–3.7.

354 Ibid, paras 3.2–3.4.

355 Ibid, paras 4.1–4.14.

356 Exhibit 73, OR: Past Gaming Reports, Appendix J.

357 Ibid, paras 4.6–4.7, 4.13 and 5.30–5.47.

358 Ibid, para 5.31.

359 Ibid, para 4.6.

360 Ibid, para 4.7.

361 Ibid, para 5.32.

Despite these findings, the report noted possible shortcomings in BCLC's FINTRAC compliance regime. These included possible over-reporting of transactions associated with PGF accounts as cash transactions where those transactions did not involve cash,[362] failure to include required information in 0.1 percent of large cash transaction reports,[363] and failure to report transactions under $50,000 that should have been reported.[364]

I will leave aside for the moment the third of these issues, relating to under-reporting of transactions under the threshold of $50,000, which is tied to a larger body of evidence and is addressed later in this chapter. I do not find the first two of these issues to represent significant non-compliance with BCLC's FINTRAC reporting obligations. There is compelling evidence before the Commission that the second of these issues, relating to the absence of required information in a very small proportion of large cash transaction reports, was the result of an error in the transmission of data from BCLC to MNP and likely did not reflect actual non-compliance at all.[365] While I am not aware of any basis to doubt the veracity of MNP's conclusion regarding the first issue, I find that any non-compliance was minor and amounted to over-reporting and so did not deprive FINTRAC of any information it should have received. I also find that there is no realistic prospect that any such non-compliance had any meaningful impact on the risk of money laundering or acceptance of proceeds of crime in the province's casinos.

Conclusions and Recommendations Related to BCLC's Risk Assessment and Enhanced Due Diligence Measures

The conclusions and recommendations set out in the MNP report suggest that BCLC's assessment of risk related to money laundering and the enhanced due diligence measures it applied to "high risk patrons" were of central interest to the reviewers and that the reviewers found these aspects of BCLC's anti–money laundering regime to be lacking in some respects. This is demonstrated in the following three paragraphs drawn from the "Summary of Findings / Recommendations" section of the report:[366]

> BCLC's CDD process meets Federal regulatory requirements for standard risk patrons. However, the process could be enhanced from both a risk management and revenue generation perspective with modifications and additional resources to meet Enhanced Due Diligence ("EDD") expectations for high risk patrons. This may include confirmation or verification of key customer data including: source of wealth; source of cash; and occupation by the Service Provider or BCLC for higher risk patrons. The gathering of

362 Ibid, para 5.32.

363 Ibid, para 5.34.

364 Ibid, para 5.33.

365 Exhibit 490, Kroeker #1, paras 122–23 and exhibit 50; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 124–27 and Transcript, January 26, 2021, pp 126–29; Exhibit 496, Email from Rob Kroeker, re MNP Audit Investigations and AML Response (July 19, 2016).

366 Exhibit 73, OR: Past Gaming Reports, Appendix J, MNP LLP, *British Columbia Gaming Policy Enforcement Branch: AML Report* (July 26, 2016), paras 4.7–4.9

> this additional information may assist the Service Provider in providing enhanced service to high valued patrons.
>
> BCLC should consider whether its risk assessment process adequately reflects current thinking around money laundering and terrorist financing risk. The risks associated to specific facilities should be evaluated, rather than simply drawing geographic boundaries for risk.
>
> BCLC should review its EDD process to ensure it appropriately mitigates identified risks. Additional resources may be required to clear the current backlog and support timely completion of the EDD process as required. BCLC should also identify reliable sources of information for persons and businesses based outside of Canada.

I note that these recommendations are, in my view, generally consistent with the advice and directions that BCLC received from GPEB and Mr. de Jong emphasizing the need to take further action on customer due diligence, particularly with respect to evaluation of the source of funds used in casino transactions.

Recommendation to Impose a Threshold Amount over which Unsourced Funds Would Be Refused

Among the recommendations aimed at GPEB contained in the MNP report was the following recommendation to impose a limit on the amount of unsourced cash that could be accepted by the province's casinos:[367]

> GPEB, at the direction of the Minister responsible for gaming, should consider issuing a directive pertaining to the rejection of funds where the source of cash cannot be determined or verified at specific thresholds. This would then provide specific guidance for BCLC to create policies and procedures for compliance by all operators.

This recommendation was discussed at length in the evidence before the Commission and is addressed in the discussion that follows relating to the reaction and response to the MNP report generally.

Reactions and Responses to the MNP Report

The Commission heard evidence from a number of witnesses about BCLC's response to the MNP report. I heard evidence of concerns from within BCLC,[368] for example, that conclusions about BCLC's compliance with FINTRAC requirements were the

367 Ibid, para 5.52.

368 Exhibit 490, Kroeker #1, para 196; Exhibit 922, Wenezenki-Yolland #1, para 164; Evidence of J. Mazure, Transcript, February 11, 2021, p 211; Exhibit 587, Meilleur #1, paras 131–35; Exhibit 541, Mazure #1, paras 196–98.

result of errors in data transmission;[369] that the report was based on dated information and that, as a result, its conclusions were out of date by the time of its completion;[370] and that BCLC was not provided with an adequate opportunity to respond to the report before it was finalized, as had initially been contemplated.[371]

Some witnesses from outside of BCLC appeared to suggest that its criticism of the review and resulting report was evidence that BCLC did not have a genuine desire to address money laundering in the province's casino.[372]

In my view, there was nothing inappropriate about BCLC voicing concerns about the MNP report, provided those concerns were genuine and expressed in good faith. Given the manner in which the report was commissioned, the time frame analyzed, and its focus on minor anomalies, one of which may have resulted from a data transmission issue, I have no reason to doubt that this was the case. I note that Ms. Wenezenki-Yolland, while generally supportive of the recommendations found in the report, shared some of BCLC's concerns about the foundation of some of its findings.[373]

That some of BCLC's concerns may have been justified does not mean that the report was of no value, however. The concerns expressed by BCLC focused on the process undertaken in conducting the review and on the findings made by the reviewers regarding the state of BCLC's anti–money laundering regime. Based on Mr. Kroeker's evidence, it appears that despite these concerns, BCLC acted on the recommendations made in the report.[374] BCLC's response plan to the report, pointed to by Mr. Kroeker in his evidence, indicates that all of the recommendations directed at BCLC were completed, with the exception of those dependent on direction from the GPEB and/or the responsible minister.[375] This evidence was corroborated to some degree by that of Ms. Wenezenki-Yolland, who agreed that BCLC accepted and implemented nearly all of the report's recommendations.[376]

The one exception to BCLC's adherence to the recommendations found in the report, according to the evidence of Ms. Wenezenki-Yolland, was the recommendation that a threshold value be established above which transactions using unsourced funds would be refused.[377] Ms. Wenezenki-Yolland described this recommendation as "the

369 Ibid; Exhibit 490, Kroeker #1, paras 122–23 and exhibit 50; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 124–27 and Transcript, January 26, 2021, pp 126–29; Exhibit 496, Email from Rob Kroeker, re MNP Audit Investigations and AML Response (July 19, 2016); Exhibit 505, Lightbody #1, para 222.

370 Evidence of R. Kroeker, Transcript, January 25, 2021, pp 129–30.

371 Exhibit 505, Lightbody #1, para 220.

372 Evidence of J. Mazure, Transcript, February 5, 2021, pp 138–39 and Transcript, February 11, 2021, pp 207–9, 211; Exhibit 587, Meilleur #1, paras 131–35; Exhibit 541, Mazure #1, paras 196–98.

373 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 70–73, 78; Exhibit 922, Wenezenki-Yolland #1, paras 165, 168.

374 Exhibit 490, Kroeker #1, para 124, exhibit 51.

375 Ibid.

376 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 137.

377 Ibid.

one area where [GPEB and BCLC] did not seem to be able to find common ground."[378] This recommendation closely resembles a similar measure that was put in place approximately 18 months later in response to a recommendation made as part of a review conducted by Dr. German, which I discuss in Chapter 12.

In his evidence, Mr. Kroeker assigned responsibility for the absence of action on this recommendation to GPEB, to whom the recommendation was directed:[379]

> The 2016 MNP Report had recommended that GPEB use its statutory powers to issue a directive limiting the amount of cash a casino could accept from a customer at any one time. Although I had reservations about some of the MNP Report's methodology and some of the resulting conclusions, I agreed that a cash cap could be an effective AML measure. MNP did not comment on what level the cap should be set at, but rather recommended that GPEB set the limit. BCLC anticipated a directive from GPEB setting the limit, which it would then implement as soon as practicable thereafter.

No directive from GPEB setting a limit on cash transactions was forthcoming.

Leaving aside the semantic question of whether the measure recommended by the MNP report is accurately described as a "cash cap," Mr. Kroeker's comments are accurate in that the recommendation was directed to GPEB and that no directive to BCLC in this regard was forthcoming. Both Mr. Mazure and Ms. Wenezenki-Yolland suggested in their evidence that this recommendation may have been misdirected, as it was not within the authority of GPEB to issue such a directive.[380] Based on the report itself, however, it is clear that GPEB was to take this action "at the direction of the Minister." As such, it seems that the reviewers had an accurate view of GPEB's authority and understood that such a direction would require ministerial approval. While I accept that GPEB did not have the unilateral authority to issue the direction recommended by MNP, the recommendation did not contemplate a unilateral direction. Rather, it called for GPEB to seek a direction from the minister. GPEB never sought such a direction, though it did attempt to seek a direction identifying a somewhat similar measure as one of several options early the following year, as I discuss below.[381] I note as well that there is no evidence that GPEB made any effort to communicate to BCLC the belief that this recommendation was misdirected and that BCLC should implement this recommendation itself.

While I do not agree with the view that this recommendation was misdirected, I also do not accept the notion that BCLC was eager to implement the recommendation and was simply waiting with passive bewilderment as to why no directive was forthcoming

378 Ibid.

379 Exhibit 490, Kroeker #1, paras 196–97.

380 Evidence of J. Mazure, Transcript, February 5, 2021, pp 136–37 and Transcript, February 11, 2021, p 209; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 71–72; Exhibit 922, Wenezenki-Yolland #1, para 168.

381 Exhibit 556, MOF Briefing Document, Minister's Direction to Manage Source of Funds in BC Gambling Facilities (February 2017) [Briefing Document: Minister's Direction].

from GPEB. I accept Ms. Wenezenki-Yolland's evidence that BCLC was resistant to the implementation of this measure and took the position that the anti–money laundering measures already in place were adequate.[382] This is consistent with the tenor of Mr. Lightbody's correspondence with Mr. Mazure, with BCLC's initial reaction to Mr. de Jong's letter of October 1, 2015, and with a draft briefing document prepared by GPEB for Mr. de Jong in early 2017, which described BCLC's position on this measure as follows:[383]

> BCLC has expressed particular concern with a potential directive requiring the refusal of unsourced cash exceeding certain thresholds, citing a potential conflict with the PCMLTFA and FINTRAC Guidelines which may result in service providers seeking compensation from government for financial impacts.

While this document reflects GPEB's interpretation of BCLC's position, it is consistent with the view found in BCLC's response plan, attached as an exhibit to Mr. Kroeker's affidavit.[384] The response plan includes the following comments on this proposal:[385]

> Subsections 9.6(1) and (2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, as well as FinTRAC Guideline 4, section 6 and FinTRAC's Guidance on the Risk-Based Approach to Combatting Money Laundering and Terrorist Financing, require BCLC to implement a risk-based compliance regime. A directive issued under the provincial *Gaming Control Act* to BCLC or service providers requiring a prescriptive compliance approach in the form recommended here may give rise to a direct conflict of laws as between federal and provincial requirements. BCLC would need clarification from the federal regulator and provincial regulator as to which requirement was to be given paramountcy. [Provincial] requirements are not aligned with or conflict with federal law.

Primary responsibility for responding to this recommendation lay with GPEB. The report assigned responsibility for implementing the recommendation to GPEB and, for the reasons outlined above, I do not accept that this was the result of a misunderstanding of GPEB's roles and responsibilities. While I reserve for later in this Report the question of whether a measure of the sort recommended should have been implemented, the fact that it was not implemented until January 2018 following a similar recommendation from an entirely separate report is primarily the result of a lack of action on the part of GPEB. This does not mean, however, that BCLC bears no responsibility for inaction on this recommendation. It is clear that, had BCLC accepted the wisdom of this recommendation, it could have implemented it in the absence of

382 Exhibit 922, Wenezenki-Yolland #1, paras 177, 179; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 78–79, 137; see also Evidence of J. Mazure, Transcript, February 5, 2021, pp 136–37 and Transcript, February 11, 2021, p 209.

383 Exhibit 556, Briefing Document: Minister's Direction, p 7.

384 Exhibit 490, Kroeker #1, exhibit 51.

385 Ibid.

a direction. While I have no reason to doubt that BCLC would have implemented this recommendation if directed to do so, the evidence before me indicates that BCLC was opposed to measures of this sort and was not reluctant to voice its opposition. This opposition complicated GPEB's efforts with respect to this recommendation and likely delayed its implementation.[386]

BCLC Voluntary Self-Declaration of Non-Compliance / $50,000 Reporting Threshold

In January 2016, BCLC submitted a "voluntary self-declaration of non-compliance" to FINTRAC.[387] The purpose of the self-declaration was to notify FINTRAC of under-reporting of suspicious transactions arising from a misunderstanding of reporting requirements on the part of Great Canadian surveillance staff members.[388] Specifically, according to the self-declaration, surveillance staff at the River Rock Casino were under the misapprehension that:

1. They were not required to screen any cash buy-ins under $50,000 as suspicious; and
2. That any large buy-ins in larger denominations such as $50 or $100 bills were not regarded as suspicious if the patron had a documented source of wealth or was historically a high limit player.

The impact of these misapprehensions was that transactions falling within these categories were not reported to BCLC as "unusual financial transactions" and, in turn, were not considered by BCLC for reporting to FINTRAC as "suspicious transactions."

In its self-declaration of non-compliance, BCLC advised that it conducted a review of all large cash transaction reports from the River Rock Casino between the period of March 1 and October 31, 2015.[389] Through that review, BCLC discovered 185 transactions that should have been reported to FINTRAC as suspicious transactions but were not. BCLC then submitted reports for those transactions.[390]

386 Exhibit 541, Mazure #1, paras 196–98; Evidence of J. Mazure, Transcript, February 5, 2021, pp 138–39 and Transcript, February 11, 2021, pp 207–9.

387 Exhibit 75, Overview Report: 2016 BCLC Voluntary Self–Declaration of Non–Compliance, para 4 and Appendix A, BCLC Voluntary Self–Declaration of Non–Compliance.

388 Ibid, para 5 and Appendix A, BCLC Voluntary Self–Declaration of Non–Compliance.

389 Ibid, para 6.

390 Ibid.

Although the underreporting arising from the River Rock Casino's surveillance staff misunderstanding of the requirements for reporting as suspicious transactions under $50,000 and those involving denominations such as $50 and $100 bills was not initially identified to FINTRAC until 2015,[391] it is clear from the evidence before the Commission that this under-reporting pre-dated BCLC's self-declaration by several years.[392]

As early as September 2011, Mr. Alderson, then a BCLC casino investigator assigned to the River Rock, raised concerns with his superiors (Mr. Friesen and Mr. Karlovcec) about the failure of service providers to report transactions under $50,000 as suspicious.[393] In an email dated September 23, 2011, Mr. Alderson raised these concerns while also suggesting that this non-reporting may have been the result of an unspecified agreement:[394]

> We have had some recent files where we have patrons buy in for $49,960.00 and $49,980 in [$20s] and we have found out through further investigation.
>
> [River Rock Casino is] not reporting these as suspicious and Steve and I feel it is too much of a coincidence and the players must have been informed.
>
> We also find that an individual player that may have combined buy ins over a 24 [hour] period exceeding $50K in buy ins in [$20s] are also not deemed suspicious as only the "individual buy in" is being looked at.
>
> Steve is looking at the [suspicious transaction reports] we have done recently to get some ITRAK file numbers.
>
> We believe this is a totally cynical attempt by the site to avoid reporting buy ins as suspicious *I know that a $50K buy in limit was agreed upon* but if you look at the [anti-money laundering] training (there is a scenario for $30K in [$20s]) I am concerned that the outside auditor will find us noncompliant. [Emphasis added.]

391 Ibid, para 1.

392 Ibid, Appendix J, September 23, 2011 Emails Between Ross Alderson and Gord Friesen; Appendix K, February 2012 Emails Between BCLC and GPEB staff; Evidence of G. Friesen, Transcript, October 28, 2020, pp 77–81; Evidence of R. Alderson, Transcript, September 9, 2021, pp 23–28.

393 Ibid, Appendix J, September 23, 2011 Emails Between Ross Alderson and Gord Friesen; Evidence of R. Alderson, Transcript, September 9, 2021, pp 23–28.

394 Exhibit 75, Overview Report: 2016 BCLC Voluntary Self–Declaration of Non–Compliance, para 4 and Appendix J, September 23, 2011, Emails Between Ross Alderson and Gord Friesen.

Mr. Friesen's response suggests that even before receiving Mr. Alderson's email, he was familiar with the existence of a $50,000 threshold for reporting:[395]

> This is not written in our Policy, so an auditor will not find us non-compliant. This is an [anti–money laundering] strategy. The problem we face is that if we believe [the River Rock Casino is] not reporting because "someone" has instructed the cage not to report these incidents, I don't think you are going to get too many confessions. What I would do is research how many patrons this pertains to (which are probably a select few) and have surveillance put a "watch" on their buy ins. Discuss this with staff at your next scheduled meeting and air your concerns, i.e. [general manager], cage manager, etc. and determine their response. *As indicated the $50,000 threshold was just a simple determination made at River Rock because of the volume of transactions.* You can alter this at will. There may well be suspicious transactions involving small denominations of bills much less than 50K. [Emphasis added.]

In his evidence before the Commission, Mr. Alderson claimed that it was common knowledge among service providers and BCLC investigators stationed at the River Rock and that service providers were not filing suspicious transaction reports for amounts under $50,000.[396] I note that, while Mr. Alderson referred to service providers generally in his evidence, it seems clear that this was an issue with respect to the River Rock Casino only, and there is no basis to suggest that any similar reporting threshold was in place in any other casino. Mr. Alderson testified that he did not know whether BCLC had endorsed this threshold, but that he believed it to be inappropriate.[397] Mr. Alderson could not recall whether he had taken any steps to modify the threshold as Mr. Friesen had invited him to do, but testified that he believed it was inappropriate for Mr. Friesen to place this responsibility on someone in Mr. Alderson's position.[398]

In his evidence, Mr. Friesen denied that BCLC had ever agreed to a $50,000 threshold for reporting by the River Rock Casino.[399] Rather, he suggested that the threshold was the result of a direction from GPEB that it did not want to receive reports pursuant to section 86 of the *Gaming Control*

395 Ibid.

396 Evidence of R. Alderson, Transcript, September 9, 2021, pp 24–25.

397 Ibid, pp 25–27.

398 Ibid, pp 27–28, 159–60.

399 Evidence of G. Friesen, Transcript, October 28, 2020, pp 77–80.

Act for amounts less than $50,000 and that this direction was erroneously applied by River Rock staff to suspicious transaction reporting.[400]

Based on the evidence of Mr. Dickson and Mr. Ennis, it appears that Mr. Friesen correctly identified the source of the threshold applied by the River Rock but is mistaken as to some of the details. Both Mr. Dickson and Mr. Ennis testified that Mr. Dickson requested that the River Rock apply a threshold to its reporting to GPEB, but that the threshold *required* the reporting of *all* buy-ins of *$50,000 or more* in $20 bills to GPEB.[401] Accordingly, Mr. Dickson did not request or direct that transactions *under* $50,000 not be reported, but rather that some transactions above this threshold *always* be reported, regardless of whether there were other suspicious indicators.[402]

Based on the evidence before me, I accept that the application of a threshold precluding the reporting of transactions under $50,000 as suspicious was the result of a misunderstanding arising from Mr. Dickson's request that *all* transactions *over* $50,000 be reported. It is clear from his evidence that Mr. Ennis clearly understood Mr. Dickson's direction and I do not doubt that he endeavoured to transmit these instructions to Great Canadian staff under his supervision. Nevertheless, some seem to have misinterpreted this instruction such that they understood they were not to report transactions below this threshold as suspicious. Accordingly, it seems that this practice did not originate within BCLC.

Based on the evidence of Mr. Alderson and Mr. Friesen and the record of correspondence between them, it is clear that, by 2011, BCLC had knowledge that the River Rock was under-reporting transactions under $50,000. Mr. Friesen appears to have left the matter to Mr. Alderson to correct but apparently did not follow up to ensure something had been done. It is unclear precisely what Mr. Alderson did in response to his exchange with Mr. Friesen, but it is clear that any actions he took were insufficient to bring an end to the practice. Given the seeming indifference to this practice on the part of BCLC personnel, and the fact that the practice persisted with their knowledge until 2015, I find that BCLC failed to take adequate steps to respond to this under-reporting, resulting in its continuation for several years.

400 Ibid, p 80.

401 Evidence of D. Dickson, Transcript, January 22, 2021, p 19; Evidence of P. Ennis, Transcript, February 3, pp 93–94.

402 Evidence of D. Dickson, Transcript, January 22, 2021, pp 15–20; Evidence of P. Ennis, Transcript, February 3, pp 93–94, 136–37.

> While BCLC should have responded more decisively to the information available to it in 2011, I am unable to conclude that this omission materially contributed to money laundering in the province's casinos. The transactions not reported as suspicious continued to be reported as large cash transactions[403] and, as such, remained available to FINTRAC. The failure to report did, however, deprive FINTRAC of some information with respect to these transactions. While this practice was clearly non-compliant and unacceptable, the record does not allow me to determine whether these omissions had a meaningful impact on FINTRAC's insight into or efforts with respect to the province's casino sector.

February 2017 Attempt to Seek Ministerial Directive

By January 2017, both Mr. Mazure and Ms. Wenezenki-Yolland continued to have concerns about the sufficiency of the measures implemented by BCLC to address suspicious transactions in the province's casinos.[404] While Ms. Wenezenki-Yolland acknowledged that BCLC had continued to make progress since the MNP report, Mr. Mazure remained concerned about the volume of suspicious transactions being accepted by casinos.[405] Ms. Wenezenki-Yolland advised Mr. Mazure that she would support him in bringing forward a recommendation to Mr. de Jong for a ministerial directive.[406]

GPEB prepared a draft briefing document proposing a ministerial directive.[407] The document indicated, as reproduced above, that BCLC was opposed to implementation of a measure requiring that transactions exceeding a certain threshold be refused if the funds used in those transactions were unsourced.[408]

The draft briefing document was entered into evidence in the Commission's proceedings[409] and offers insight into the nature of the direction sought by GPEB. The proposed direction included all of the following measures (but also indicated that any could be issued as "a stand-alone directive"):[410]

> A. Require BCLC to complete source of funds interviews for *all transactions* when [large cash transaction reports] must be filed with FINTRAC (i.e., $10,000 [or] higher). BCLC investigators to review … interview responses. If source of funds cannot be verified by investigators, BCLC

403 Evidence of T. Doyle, Transcript, February 10, 2021, p 5.

404 Evidence of J. Mazure, Transcript, February 5, 2021, pp 143–45; Exhibit 922, Wenezenki-Yolland #1, paras 194–96 and 202–4; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 86.

405 Exhibit 922, Wenezenki-Yolland #1, paras 199, 202.

406 Ibid, para 202.

407 Ibid, para 205; Exhibit 556, Briefing Document: Minister's Direction.

408 Exhibit 556, Briefing Document: Minister's Direction; Exhibit 922, Wenezenki-Yolland #1, para 205.

409 Exhibit 556, Briefing Document: Minister's Direction.

410 Ibid, pp 9–10.

must issue source of funds directive for patron (i.e. patron may not buy-in with unsourced cash). [Emphasis in original.]

B. Require BCLC to verify source of funds for all deposits of new money (does not include re-deposits) into PGF accounts exceeding $10,000, ensuring that funds are coming from account with regulated financial institution held by patron. For example, no unsourced bank drafts to be accepted.

C. Require BCLC to clarify that rule related to re-depositing into PGF accounts is the same for chips and cash (i.e., only verified wins and only after continuous play).

D. Require BCLC investigators to work with GPEB investigators, sharing all information on patron investigations with respect to suspicious cash transactions, source of funds.

E. Ban all patrons that have links to organized crime.

F. Require auditing of all active PGF accounts by tier 1 audit firm to:

- Review all PGF deposits to ensure appropriate source of funds information has been obtained; and
- Review patron information to ensure that appropriate CDD has been conducted for all account holders and that level of play is consistent with occupation / employment and source of wealth is consistent with level of play.

This request for a direction was never presented to Mr. de Jong. Ms. Wenezenki-Yolland sought and obtained the support of the deputy minister to bring the request forward to Mr. de Jong, but before this could happen, Ms. Wenezenki-Yolland learned that the government would not be considering further policy initiatives before the upcoming provincial election.[411] Ms. Wenezenki-Yolland made further efforts to obtain an opportunity to seek the proposed direction from the minister but was unsuccessful, and no directive was sought from the minister prior to the election and resulting change in government.[412]

While Mr. Mazure was not able to bring his ongoing concerns about suspicious transactions forward to the responsible minister at this time, he would soon have another opportunity to do so, following the provincial election and the appointment of a new responsible minister, David Eby. While Mr. Mazure did not seek from the new minister the directive he had hoped to propose to Mr. de Jong, the briefing that he and Mr. Meilleur provided to Mr. Eby ultimately played a role in inspiring meaningful action to address the elevated levels of suspicious cash transactions that continued in the province's casinos. I discuss these events in Chapter 12.

411 Exhibit 922, Wenezenki-Yolland #1, paras 206–7.

412 Ibid, para 209.

Chapter 12
Gaming Narrative: 2017–Present

Results of 2017 Provincial Election and Appointment of Minister David Eby

British Columbia's 41st General Election was held on May 9, 2017.[1] The BC Liberal Party, which formed government prior to the election, won 43 seats in the Legislature, more than any other party, but one seat short of a majority.[2] The BC New Democratic Party won 41 seats and the BC Green Party won three.[3] After the incumbent Liberal government failed to retain the confidence of the Legislative Assembly,[4] the BC New Democratic Party formed government under new Premier John Horgan with the support of the BC Green Party.[5] David Eby, who had previously served as the opposition critic for gaming, among other roles, was appointed attorney general and minister responsible for gaming.[6] Mr. Eby was also assigned responsibility for the Liquor Distribution Branch and the Insurance Corporation of British Columbia.[7]

1 Legislative Assembly of British Columbia, Elections BC, *Report of the Chief Electoral Officer: Provincial General Election*, (May 9, 2017) (Chair: Dr. Keith Archer), p 2, Online: https://elections.bc.ca/docs/rpt/2017-General-Election-Report.pdf.

2 Ibid, p 74.

3 Ibid.

4 Legislative Assembly of British Columbia, Discover Your Legislature, *2017 – The First Minority Government Since 1952*, online: https://www.leg.bc.ca/dyl/Pages/2017-First-Minority-Government-Since-1952.aspx.

5 Geordon Omand, "B.C. NDP Forms Government for the First Time since 2001," CTV News (July 18, 2017), online: https://bc.ctvnews.ca/b-c-ndp-forms-government-for-first-time-since-2001-1.3506830.

6 Evidence of D. Eby, Transcript, April 26, 2021, pp 226–27.

7 Ibid.

Post-Election Briefings of Mr. Eby

Following his appointment, Mr. Eby received briefings related to his role as minister responsible for gaming from both the British Columbia Lottery Corporation (BCLC) and the Gaming Policy and Enforcement Branch (GPEB).

July 2017 Briefing by BCLC

BCLC provided Mr. Eby with an initial briefing at the end of July 2017.[8] In addition to Mr. Eby, those present for the briefing included Bud Smith, then the BCLC board chair;[9] John Mazure, general manager of GPEB;[10] Deputy Attorney General Richard Fyfe;[11] a ministerial assistant from Mr. Eby's office;[12] and several senior-level BCLC staff members, including Jim Lightbody, BCLC's chief executive officer, and Robert Kroeker, BCLC's vice-president of legal, compliance and security and chief compliance officer.[13]

Mr. Eby's recollection was that Mr. Lightbody and Mr. Smith took primary responsibility for presenting during the briefing.[14] Mr. Fyfe understood that the briefing was intended to be a high-level presentation to orient Mr. Eby and Mr. Fyfe to BCLC's role in the province's gaming industry.[15] Mr. Eby's description of the briefing was consistent with the purpose identified by Mr. Fyfe:[16]

> [A]s a new minister responsible for a file, typically you get something called 30/60/90, which is important decisions or issues that are coming up in the following 30, 60 or 90 days. That was part of this presentation from BCLC. In addition, it's typical – I had responsibility for a number of Crown and Crown-like agencies – to also get presentations on major business initiatives, challenges, opportunities, new programs that were being introduced or current programs they were particularly proud of so that as minister I could be informed and speak with some level of intelligence about the organization, and that was the nature of this briefing.

A slide deck used in the course of the briefing, which Mr. Lightbody confirmed accurately reflected the topics discussed,[17] was entered into evidence as an exhibit

8 Evidence of R. Fyfe, Transcript, April 29, 2021, pp 59–60.

9 Evidence of J. Lightbody, Transcript, January 29, 2021, p 42; Evidence of D. Eby, Transcript, April 26, 2021, p 29.

10 Evidence of R. Fyfe, Transcript, April 29, 2021, pp 59–60; Evidence of D. Eby, Transcript, April 26, 2021, p 29.

11 Evidence of R. Fyfe, Transcript, April 29, 2021, pp 59–60.

12 Evidence of D. Eby, Transcript, April 26, 2021, p 29; Evidence of R. Fyfe, Transcript, April 29, 2021, p 59–60.

13 Evidence of R. Fyfe, Transcript, April 29, 2021, pp 59–60; Evidence of J. Lightbody, Transcript, January 29, 2021, p 42; Evidence of D. Eby, Transcript, April 26, 2021, p 29.

14 Evidence of D. Eby, Transcript, April 26, 2021, pp 29–30.

15 Ibid, p 60.

16 Evidence of D. Eby, Transcript, April 26, 2021, p 30.

17 Evidence of J. Lightbody, Transcript, January 29, 2021, p 42.

during the Commission's proceedings.[18] This slide deck suggests that the topics covered during the briefing included BCLC's "role, vision and strategy;" priority areas for investment; player health; the development of the Parq Vancouver casino; the potential for new gaming facilities in Victoria, Delta, and North Vancouver; a new headquarters for BCLC; the BCLC's financial situation; and other topics.[19] This slide deck is consistent with the evidence of Mr. Fyfe and Mr. Eby that the briefing provided a very general introduction to BCLC and its role in the province's gaming industry.[20]

Discussion of BCLC Anti–Money Laundering Program

While clearly not the sole focus of the July 2017 briefing, BCLC's anti–money laundering program was one of the topics addressed in this briefing of Mr. Eby.[21] Mr. Eby described the message he received from the briefing on this subject as being "[t]hat BCLC had a North American-leading anti–money laundering program" and "that [the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)] was approving of BCLC's activities."[22] Mr. Eby testified that he did not leave the briefing with the impression that BCLC had any level of concern about suspicious cash entering the province's casinos or the potential that casinos could be used to launder the proceeds of crime.[23]

This message is consistent with the contents of the slide deck used in this briefing. The slide deck highlighted the absence of deficiencies found during a July 2016 FINTRAC audit of BCLC's compliance program, noted that FINTRAC had identified the program as "a leader in the sector," and suggested that the formation of the Joint Illegal Gaming Investigation Team (JIGIT) was the product of reports of illegal gambling houses to the RCMP by BCLC in 2014.[24] The slide deck does not refer to the volume of suspicious cash that had entered casinos over the previous decade; the E-Pirate investigation; the direction issued to BCLC by former minister responsible for gaming, Michael de Jong, on October 1, 2015; or the subsequent advice and recommendations from Mr. Mazure regarding source-of-funds inquiries or BCLC's cash conditions program. The slide deck also does not reference the volume of suspicious cash accepted by the province's casinos being a significant factor leading to the formation of JIGIT, or the view of BCLC, as evidenced by Mr. Lightbody's August 24, 2015, letter to Mr. de Jong,[25] that there was a need for greater law enforcement engagement on the issue of suspicious cash. By any measure, BCLC's initial briefing of the new minister painted a misleading picture.

18 Exhibit 514, BCLC Briefing (July 31, 2017); Exhibit 905, BCLC Briefing (July 31, 2017).

19 Exhibit 914, Internal Memo to Len Meilleur from Parminder Basi, re COMM–8939 BCLC Directive Impact on Cash Buy–Ins and New Money PGF Deposits (August 9, 2017); Exhibit 905, BCLC Briefing (July 31, 2017).

20 Evidence of R. Fyfe, Transcript, April 29, 2021, p 60; Evidence of D. Eby, Transcript, April 26, 2021, p 30.

21 Evidence of D. Eby, Transcript, April 26, 2021, pp 31–33, 233–34; Evidence of R. Fyfe, Transcript, April 29, 2021, pp 72, 75; Exhibit 905, BCLC Briefing (July 31, 2017); Exhibit 909, BCLC Briefing Note for David Eby, re Status update on JIGIT (July 27, 2017).

22 Evidence of D. Eby, Transcript, April 26, 2021, p 31.

23 Ibid.

24 Exhibit 905, BCLC Briefing (July 31, 2017).

25 Exhibit 505, Affidavit #1 of Jim Lightbody, sworn on January 25, 2021 [Lightbody #1], exhibit 49.

August 2017 GPEB Briefing

Mr. Eby described receiving a significantly different message from GPEB in a briefing that occurred in August 2017, only a few weeks after his briefing by BCLC.[26] Mr. Eby's recollection was that the attendees of the August 2017 meeting included Mr. Mazure, GPEB executive director of compliance Len Meilleur, and a GPEB analyst[27] and that the briefing was led primarily by Mr. Meilleur.[28] It is clear from the evidence of Ken Ackles, who was GPEB's manager of investigations at that time, that he was in attendance as well.[29] No one from BCLC was present for the briefing.[30] In his evidence, Mr. Eby described the message he took away from this briefing:[31]

> The broad theme that I recall coming away from that meeting with was that there was a very serious and ongoing money laundering issue in BC casinos, that there was a very significant criminal investigation into proceeds of crime being brought into BC casinos, that the Gaming Policy [and] Enforcement Branch was profoundly concerned about money laundering in BC casinos and that they wanted government to take significant actions to address the issue.

Mr. Eby recalled finding the information provided by GPEB credible. He left the briefing very concerned that bulk cash being accepted in the province's casinos was closely connected to illicit activities.[32] The briefing also provided Mr. Eby with clarity as to how large cash buy-ins in casinos could be connected to money laundering even where the funds were ultimately lost – which he had not understood during his time as opposition gaming critic.[33]

Mr. Eby also testified that it was apparent from this briefing that the perspectives of BCLC and GPEB were not aligned on this issue.[34] This was evident to Mr. Eby from the contrast between the two briefings, and because it was also clearly communicated by the representatives of GPEB.[35] According to Mr. Eby:[36]

> [T]he thrust of the presentation and the discussion which was more in the nature of a discussion than sort of a walk through a PowerPoint was that GPEB felt that their concerns about anti–money laundering and money

26 Evidence of D. Eby, Transcript, April 26, 2021, p 34.

27 Ibid, p 38.

28 Ibid, p 142.

29 Evidence of K. Ackles, Transcript, November 2, 2020, p 146.

30 Evidence of D. Eby, Transcript, April 26, 2021, p 38.

31 Ibid, p 35.

32 Ibid, pp 36–37.

33 Ibid, pp 36–37.

34 Evidence of D. Eby, Transcript, April 26, 2021, p 36.

35 Exhibit 906, Provincial AML Strategy by John Mazure and Len Meilleur (August 2017) [AML Strategy 2017]; Exhibit 907, Provincial AML Strategy (Part II) by John Mazure and Len Meilleur [AML Strategy Part II].

36 Evidence of D. Eby, Transcript, April 26, 2021, p 41.

> laundering – the potential of money laundering in casinos were not adequately being heard by the BC Lottery Corporation and that they were at odds about how – what type of action was necessary. So the core of it being that GPEB wanted more severe restrictions and that the BC Lottery Corporation did not.

It is apparent from the evidence of Mr. Eby and other evidence[37] before me that GPEB emphasized in this briefing its perspective that BCLC was not taking sufficient action to address suspicious transactions. It does not appear, however, that the briefing provided the minister with a detailed description of the actions that BCLC *was* taking to address suspicious transactions and the risk of money laundering in casinos at this time. Mr. Eby recalled being left with the impression that BCLC was meeting FINTRAC requirements, but nothing more.[38] He learned nothing during this briefing of the industry's three-phase anti–money laundering strategy; of the Meyers Norris Penney LLP (MNP) report recommendation that GPEB, at the direction of the minister, implement a policy requiring refusal of unsourced cash; or of BCLC's cash conditions program and its impact on the industry.[39] Mr. Eby agreed during his testimony that the failure to include this information rendered the briefing incomplete and inaccurate and that he later learned that BCLC was, in fact, more active in addressing suspicious cash than was suggested by GPEB during this briefing.[40] I agree that the failure of GPEB to outline for Mr. Eby the steps that BCLC was taking left the minister with an incomplete understanding of what the BC Lottery Corporation was doing and the progress that had been made to date. In doing so, GPEB likely compromised the minister's ability to make an informed assessment of what further action was required.

Possible Actions Identified in GPEB Briefing

In addition to describing GPEB's perspective as to the nature and extent of the problem posed by suspicious cash transactions, the briefing also included several proposals for addressing this problem.[41] These included the following "possible actions" listed in the final slide of the slide deck used in the briefing:[42]

1. Direction to clarify roles and responsibilities of GPEB and BCLC;
2. Amend GCA [*Gaming Control Act*] s. 97 offence provisions so that they apply to BCLC;
3. Implement more rigorous Know Your Customer (KYC) / Source of Funds (SOF) standards;

37 Exhibit 906, AML Strategy 2017; Exhibit 907, AML Strategy Part II.

38 Evidence of D. Eby, Transcript, April 26, 2021, pp 149, 151.

39 Ibid, p 149.

40 Ibid, pp 153–56.

41 Exhibit 907, AML Strategy Part II, pp 8–9; Evidence of D. Eby, Transcript, April 26, 2021, pp 42–43.

42 Exhibit 907, AML Strategy Part II, p 9.

4. GPEB audit of casino service provider training; and

5. Implementation of Transaction Assessment Team (TAT).

While one or more of these "possible actions" might have required a ministerial direction,[43] it appears that GPEB did not present to or seek from Mr. Eby the direction that Mr. Mazure attempted to seek from Mr. de Jong prior to the 2017 provincial election.[44] While Mr. Mazure could not recall whether he proposed to Mr. Eby the directive initially intended for Mr. de Jong,[45] Mr. Eby's evidence was that he did not see the briefing note prepared for Mr. de Jong[46] and did not recall receiving a briefing note from GPEB on source-of-funds measures.[47] Similarly, Mr. Fyfe had no recollection of Mr. Mazure ever raising the prospect of a ministerial directive.[48] Given the apparent urgency with which Mr. Mazure viewed this issue prior to the change in government and the evidence of Cheryl Wenezenki-Yolland, who served as associate deputy minister of finance under Mr. de Jong, regarding Mr. Mazure's concern and disappointment upon learning that it would not be possible to present the proposal to Mr. de Jong, it is difficult to comprehend why the proposed directive was omitted from the initial briefing of Mr. Eby.

Mr. Eby did not direct that any of the possible actions identified in the GPEB briefing be implemented.[49] He explained that he was persuaded of the existence of the problem described by GPEB and the need for immediate action,[50] but that he had little capacity to independently assess the impacts or potential consequences of any of specific policy options:[51]

> I didn't understand or know what the best action would be to actually stop the activity. I understood there was an ongoing police investigation. I understood that the BC Lottery Corporation from their perspective had things under control but the Gaming Policy [and] Enforcement Branch disagreed with that. I didn't know the impacts or consequences of any of these particular policy recommendations, and this was just one of my files.
>
> So I was … quite surprised by what was happening allegedly in BC casinos, and … rather than grappling about oh, is the best approach [improved] KYC or SOF … I left the briefing saying oh, my gosh … I need to talk to my Deputy Attorney General; I need to get some advice about how best to move forward here because the correct route is not clear to me.

43 Evidence of D. Eby, Transcript, April 26, 2021, p 55; Evidence of J. Mazure, Transcript, February 5, 2021, pp 145–47.

44 Evidence of R. Fyfe, Transcript, April 29, 2021, p 14; Evidence of D. Eby, Transcript, April 26, 2021, p 55.

45 Evidence of J. Mazure, Transcript, February 5, 2021, pp 145–47.

46 Evidence of D. Eby, Transcript, April 26, 2021, p 55.

47 Ibid, p 55.

48 Evidence of R. Fyfe, Transcript, April 29, 2021, p 14.

49 Evidence of D. Eby, Transcript, April 26, 2021, pp 43–45.

50 Ibid, pp 36–37, 43–45.

51 Ibid, pp 44–45.

As described below, Mr. Eby would soon go on to seek this advice in the form of a review conducted by Peter German, which commenced in September 2017.[52]

Commencement of Dr. German's First Review

Mr. Eby explained that his motivation to undertake what would become Dr. German's first review arose from his serious concerns about suspicious cash and money laundering arising from the GPEB briefing.[53] However, given the significant gap between the views of BCLC and GPEB, Mr. Eby was reluctant to rely on either agency and decided to look outside of the two organizations for guidance.[54] Once the decision to proceed with an independent review was made, terms of reference were prepared and Dr. German was identified as the person who would conduct the review.[55] Mr. Eby explained that, while they had no pre-existing relationship, he was enthusiastic about this choice because of Dr. German's policing experience, his lack of political affiliations or close ties to the gaming industry, and because he is a lawyer and had authored a book about money laundering.[56]

The nature and purpose of the review were identified in the terms of reference developed by the Ministry of the Attorney General and agreed to by Dr. German on October 7, 2017.[57] The terms of reference described Dr. German's task as follows:[58]

> The Minister requires an independent expert to inquire into whether there is an unaddressed, or inadequately addressed, issue of money laundering in Lower Mainland casinos, and if there is, the nature and extent of this issue, and the history of the issue.
>
> If an issue is identified, the Minister requires advice on:
>
> 1. What connection, if any, the issue has with other areas of BC's economy, laws or policies that require government, law enforcement, statutory or regulatory attention;
> 2. What connection, if any, the issue has with other crimes; and
> 3. What steps within existing laws, or what new laws, are required to address the issue.

52 Evidence of P. German, Transcript, April 12, 2021, p 86; Evidence of D. Eby, Transcript, April 26, 2021, pp 65–66, 178–79.

53 Evidence of D. Eby, Transcript, April 26, 2021, pp 65–66; Evidence of R. Fyfe, Transcript, April 29, 2021, pp 99–100.

54 Evidence of D. Eby, Transcript, April 26, 2021, pp 65, 178–79.

55 Evidence of D. Eby, Transcript, April 26, 2021, pp 67–71, 179–80; Evidence of R. Fyfe, Transcript, April 29, 2021, pp 26–30.

56 Evidence of D. Eby, Transcript, April 26, 2021, pp 68–71, 179–80.

57 Exhibit 940, Letter from Richard Fyfe to Peter German, re Terms of Reference – Money Laundering Review (October 4, 2017 and signed October 7, 2017) [Fyfe Letter October 2017]; Evidence of R. Fyfe, Transcript, April 29, 2021, p 28.

58 Exhibit 940, Fyfe Letter October 2017, p 2.

> Recommendations resulting from the review should be reported to the Attorney General as soon as they are ready; they should not be held pending submission of the final report.
>
> In order to complete this review, the independent expert may meet with any individual or organization that will assist in addressing the areas of review, but must meet at a minimum with the following groups:
>
> 1. The Gaming Policy and Enforcement Branch;
> 2. The BC Lottery Corporation;
> 3. The Combined Forces Special Enforcement Unit British Columbia Joint Illegal Gaming Investigation Team;
> 4. The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC);
> 5. Service Providers of any facilities identified during the review; and
> 6. Where possible, employee organizations at identified facilities.

Mr. Eby testified that he did not give Dr. German any instructions aside from what was communicated in the terms of reference and did not suggest a particular narrative or focus that Dr. German should pursue in his report.[59] In this respect, Mr. Eby's evidence was corroborated by that of Mr. Fyfe[60] and of Dr. German, who testified that he was not retained to pursue any particular narrative and that Mr. Eby exerted no influence over the review and made clear from the outset of his work that the report was to be independent.[61]

Dr. German was appointed to conduct his review on September 28, 2017,[62] and proceeded to do so over the course of the following six months.[63] He delivered two interim recommendations to Mr. Eby on November 29, 2017,[64] a third interim recommendation on March 19, 2018,[65] and his final report on March 31, 2018.[66] As discussed elsewhere in this Report, Dr. German was subsequently retained to conduct a second review focused on money laundering in other sectors of the province's economy.[67]

59 Evidence of D. Eby, Transcript, April 26, 2021, p 71.

60 Evidence of R. Fyfe, Transcript, April 29, 2021, p 30.

61 Evidence of P. German, Transcript, April 12, 2021, pp 75–76.

62 Exhibit 832, Peter German, *Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos Conducted for the Attorney General of British Columbia*, March 31, 2018 [*Dirty Money 1*], p 22.

63 Evidence of P. German, Transcript, April 12, 2021, p 86.

64 Exhibit 832, *Dirty Money 1*, p 247.

65 Ibid, p 248.

66 Ibid.

67 Exhibit 833, Peter German, QC, *Dirty Money, Part 2: Turning the Tide – An Independent Review of Money Laundering in B.C. Real Estate, Luxury Vehicle Sales & Horse Racing*, March 31, 2019.

Dr. German's work is an important part of this story. It was a significant step taken by government in its effort to better understand and ultimately eliminate money laundering and proceeds of crime from the province's gaming industry. The Commission's Terms of Reference direct me to consider Dr. German's report. Indeed, this Report would be incomplete without consideration and discussion of Dr. German's conclusions. However, this Commission of Inquiry is not and was not intended to be a comprehensive review of Dr. German's work, which was completed at a different time and based on different information and through a different process than that of the Commission. As such, I will comment on the work of Dr. German only to the extent necessary to fulfill the Commission's Terms of Reference. I do not intend to pass judgment generally on Dr. German's findings or offer commentary on each and every recommendation made by Dr. German. Silence on any particular finding or recommendation should not be interpreted as approval or disapproval, but simply that, in fulfilling the Commission's Terms of Reference, I did not find it necessary to comment on that aspect of Dr. German's conclusions.

Responses to Media Coverage of Cash-for-Cheques Money Laundering

On September 29, 2017, one day following Dr. German's appointment, media reporting gave rise to significant concerns regarding the risk of money laundering in the province's gaming industry.[68] Multiple witnesses, including Mr. Kroeker, Mr. Lightbody, and Bob Doyle, a consultant based in the New York office of Ernst & Young, described this reporting as alleging that casino patrons had been attending casinos, buying-in with large amounts of cash derived from criminal activity, and then cashing out and receiving a cheque following minimal or no play.[69] These allegations were of significant concern to BCLC as, according to Mr. Kroeker, this method of money laundering should have been impossible if the controls in place in casinos at the time were working properly.[70] A number of events, detailed below, flowed from the response to these reports, including further briefings and meetings with the minister, an extensive audit of BCLC's anti–money laundering controls, and the resignation of one of BCLC's senior anti–money laundering staff members.

68 Exhibit 490, Affidavit #1 of Robert Kroeker, made on January 15, 2021 [Kroeker #1], para 186; Evidence of T. Doyle, Transcript, February 10, 2021, pp 47–48; Exhibit 505, Lightbody #1, para 227; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 149–50 and Transcript, January 26, 2021, p 158.

69 Exhibit 490, Kroeker #1, para 186; Evidence of T. Doyle, Transcript, February 10, 2021, pp 47–48; Exhibit 505, Lightbody #1, para 227; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 149–50 and Transcript, January 26, 2021, p 158.

70 Exhibit 490, Kroeker #1, para 186, exhibit 96; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 149–50 and Transcript, January 26, 2021, p 158.

Briefings and Meetings with the Minister Following Media Reporting

October 2017 BCLC Briefing

Representatives of BCLC briefed Mr. Eby for a second time on October 23, 2017.[71] In addition to Mr. Eby, those present for this briefing included Mr. Kroeker, Mr. Smith, Mr. Lightbody, Mr. Fyfe, and staff from Mr. Eby's office.[72] Mr. Kroeker explained that the rationale for seeking this briefing was negative media coverage about money laundering in British Columbia casinos:[73]

> In October 2017, there was increasingly negative media coverage on casinos that was rife with misinformation. This caused BCLC concern. BCLC was also concerned that it had had no opportunity to provide detailed information to Minister Eby regarding BCLC's money laundering controls in the face of adverse media reports. Minister Eby had been briefed on casino money laundering by GPEB earlier in 2017 but BCLC was excluded from that briefing. BCLC's concern was that Minister Eby was forming his views on money laundering in casinos without all pertinent information – including corrections of misinformation.

I pause to note that had BCLC, in its initial briefing, candidly explained the suspicious cash problem and the measures they had implemented to respond to the issue, the minister would have had this "pertinent" information. Unlike BCLC's initial briefing with Mr. Eby in July 2017, it seems the October 2017 briefing was focused directly on the risk of money laundering in the province's casinos, the measures BCLC had put in place to address that risk, and further steps that could be taken.[74] During the briefing, BCLC representatives discussed anti–money laundering roles and responsibilities within the gaming industry;[75] identified areas of money laundering risk;[76] walked Mr. Eby through BCLC's anti–money laundering controls;[77] explained the impact of past lack of engagement on the part of law enforcement;[78] and discussed options for further improving BCLC's anti–money laundering regime.[79] During this briefing, Mr. Smith raised with Mr. Eby the risk inherent in offering high-limit table games and offered that BCLC could eliminate that aspect of its business if it was

71 Exhibit 490, Kroeker #1, para 180; Evidence of D. Eby, Transcript, April 26, 2021, p 47.

72 Exhibit 490, Kroeker #1, para 181; Evidence of B. Smith, Transcript, February 4, 2021, p 89; Evidence of D. Eby, Transcript, April 26, 2021, p 48.

73 Exhibit 490, Kroeker #1, para 179.

74 Ibid, paras 182–85; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 138–39, 143–44; Exhibit 505, Lightbody #1, paras 208, 209; Evidence of J. Lightbody, Transcript, January 28, 2021, p 66; Evidence of D. Eby, Transcript, April 26, 2021, p 49; Evidence of R. Fyfe, Transcript, April 29, 2021, pp 21–22.

75 Exhibit 505, Lightbody #1, para 208.

76 Evidence of J. Lightbody, Transcript, January 28, 2021, p 66.

77 Exhibit 490, Kroeker #1, para 182.

78 Exhibit 505, Lightbody #1, para 208.

79 Ibid.

outside of government's risk tolerance.[80] Mr. Eby declined Mr. Smith's suggestion.[81] Mr. Eby explained in his evidence that he had received many policy proposals at this time and rather than consider each individually as they arose, he hoped that those recommendations could be centralized, evaluated, and prioritized and that he could receive recommendations as to what would be most effective from Dr. German.[82]

Mr. Eby described to me the message he took away from this briefing:[83]

> The theme of the meeting that I took away was that the BC Lottery Corporation had been very concerned about proceeds of crime in casinos, that they had taken a number of actions to try to address proceeds of crime coming into casinos and money laundering and that they had done fairly extensive intelligence-related research related to patrons bringing bulk cash into casinos and that they had – some of their programs had had results in reducing suspicious cash transactions.
>
> And that was kind of the thrust of the meeting, was, here's what we've been doing, here's what we're concerned about. And I can't recall specifically whether they presented some policy recommendations during that meeting, but we had also had discussions about various policy recommendations.

Asked to contrast this briefing with the one he received from BCLC in July 2017, Mr. Eby responded that he could not say that the briefings were inconsistent, but that, in his view, the information about suspicious cash not provided to him during the July briefing was a material omission from what was presented to him at that time:[84]

> [T]he first briefing had not addressed the issue of people bringing illicit bulk cash into casinos at all and had focused on FINTRAC's perspectives on BC Lottery Corporation's compliance with the FINTRAC regime. So, I think that if I were to look at it critically, the two presentations were not inconsistent; however, it seemed to me that this should have been an issue that was canvassed in significant detail at the first briefing, and it was not.

I agree with Mr. Eby that the failure of BCLC to candidly set out for the minister the nature of the suspicious cash and money laundering problem facing British Columbia casinos was a material omission. While Mr. Eby may be correct that, strictly speaking, the information provided in the two briefings was not "inconsistent," the different approaches taken by BCLC in each presented starkly inconsistent pictures of the state of the province's gaming industry.

80 Evidence of R. Kroeker, Transcript, January 25, 2021, pp 138–39; Exhibit 490, Kroeker #1, para 182; Exhibit 505, Lightbody #1, para 209; Evidence of B. Smith, Transcript, February 4, 2021, pp 89–90; Evidence of D. Eby, Transcript, April 26, 2021, pp 59–60.

81 Evidence of D. Eby, Transcript, April 26, 2021, pp 59–60.

82 Ibid.

83 Ibid, pp 48–49.

84 Ibid, pp 49–50.

Ernst & Young Cheque Audits

Prior to briefing Mr. Eby, BCLC commenced efforts to determine the accuracy of media reporting that suggested that patrons had been able to exchange illicit cash for cheques following minimal play. On the day that this reporting first came to light, Mr. Lightbody and Mr. Smith sought Mr. Kroeker's opinion as to whether the allegations were possible given the anti–money laundering controls in place in casinos.[85] In response, Mr. Kroeker advised that the reporting could be accurate only if the controls had been subverted through staff corruption.[86] Mr. Smith, Mr. Lightbody, and Mr. Kroeker decided that it was necessary to conduct an audit to determine whether the allegations contained in the media reporting were true, and Mr. Kroeker contacted Ernst & Young the same day to arrange such an audit.[87] Auditors from Ernst & Young travelled to Vancouver that weekend in order to commence work the following Monday.[88]

The scope and purpose of the audit conducted by Ernst & Young were described in a report prepared to detail their findings:[89]

> BCLC requested that we analyze the following specific types of cheques issued by River Rock Casino Resort ("River Rock"): Verified Win and Return of Fund Cheques issued for $10,000 or more, and Convenience Cheques issued for more than $10,000, for the period of January 1, 2014 to December 31, 2016. BCLC requested that Verified Win Cheques were limited to cheques related to Table Game play only.
>
> The purpose of our analyses was to identify instances of cheques issued to Patrons of River Rock that were not supported by the Patron's gaming activity. The Mandate Questions were specifically developed through consultations with BCLC's management and BCLC's Audit Committee. The Mandate Questions that BCLC asked us to address are as follows:
>
> *Mandate Question 1: Verified Win, Return of Funds, and Convenience Cheques ("All Cheques")*
>
> From the sample of cheques analyzed, were there cases observed where a Patron walked in to River Rock with cash and received a cheque without any casino play?
>
> *Mandate Question 2: Verified Win Cheques*
>
> From the sample of cheques analyzed, were there cases observed where a patron received a verified win cheque for an amount that is not supported

85 Exhibit 505, Lightbody #1, para 228.

86 Ibid; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 149–50.

87 Exhibit 490, Kroeker #1, paras 187–88, exhibit 96; Evidence of R. Kroeker, Transcript, January 25, 2021, p 190.

88 Exhibit 490, Kroeker #1, para 187, exhibit 96; Evidence of R. Kroeker, Transcript, January 25, 2021, p 190.

89 Exhibit 484, Affidavit #2 of Kevin deBruyckere, sworn on October 23, 2020 [deBruyckere #2], exhibit 13.

> by a Cash Tracking Form, or does not reconcile to the Cash Tracking Form provided, documenting their play for that day, regardless if the buy-in was cash or not?
>
> *Mandate Question 3: Return of Funds Cheques*
>
> From the sample of cheques analyzed, were there cases observed where a Patron removed funds from a Patron Gaming Fund ("PGF") account and received a Verified Win Cheque without any casino play?
>
> *Mandate Question 4: Return of Funds Cheques*
>
> From the sample of cheques analyzed, were there cases observed where a PGF Patron deposited funds and subsequently received a Return of Funds Cheque with no gaming activity between the deposit and the cheque request?
>
> *Mandate Question 5: Convenience Cheques*
>
> From the sample of cheques analyzed, were there cases observed where a Patron received a Convenience Cheque for an amount greater than $10,000?

In the course of the audit, which took more than 18 months and cost approximately $500,000, Ernst & Young analyzed 2,031 cheques, including every cheque issued for more than $10,000 at the River Rock Casino during the time period in question.[90] The auditors identified irregularities in 49 transactions involved 28 patrons.[91] These irregularities included:[92]

- One cheque in the amount of $300,000 was issued to a patron who walked into River Rock with cash and received a cheque without any casino play.
- Thirty-five verified win cheques were issued to patrons for amounts not supported by a cash tracking form, or that did not reconcile to the cash tracking form provided, documenting their play for that day, regardless of whether or not the buy-in was in cash. These cheques totaled $2,801,100, of which $1,140,490 was unsupported.
- Nine verified win cheques totalling $3,510,000 were issued to patrons who removed funds from patron gaming fund (PGF) accounts without any casino play.
- Five return of funds cheques issued to a patron who deposited funds into PGF accounts and subsequently received a return of funds cheque with no gaming activity between the deposit and the request for a cheque.
- Zero convenience cheques were issued for amounts greater than $10,000.

90 Exhibit 490, Kroeker #1, para 189.

91 Ibid, para 190.

92 Exhibit 484, deBruyckere #2, exhibit 13.

One cheque met more than one of these criteria, which accounts for the cumulative number of cheques in all categories exceeding the total number of transactions (49) identified as irregular.[93]

The auditors subsequently conducted an analysis of transactions and gaming activity at the River Rock by the 28 patrons involved in the 49 transactions identified as irregular.[94] Ernst & Young concluded that some form of mitigating action had been applied to each of these patrons. These actions included filing reports internally or to FINTRAC, imposing cash conditions on those players, designating patrons as "persons of interest" or "high-risk patrons," or banning the patrons.[95]

Ernst & Young later completed a similar audit of cheques issued by the Grand Villa Casino. This audit concluded that, of 658 cheques analyzed, auditors identified irregularities in the issuance of only three cheques.[96] Two of these irregularities involved issuance of a cheque for an amount not supported by player tracking forms, and one involved issuance of a convenience cheque for more than $10,000.[97] The unsupported amount for all three cheques totalled $11,100.[98]

Presentation of the River Rock Cheque Audit to the BCLC Board and Government

On September 14, 2018, the draft results of the River Rock cheque audit were presented to the BCLC board.[99] Mr. Kroeker and Mr. Lightbody were both present for the board meeting, as was Doug Scott, former assistant deputy minister and general manager of GPEB, who had recently been appointed as an associate deputy minister in the Ministry of the Attorney General with responsibilities that included the gaming industry.[100] Neither Mr. Eby nor Mr. Fyfe were present at the meeting.[101]

While the audit had commenced at approximately the same time as Dr. German's review, Dr. German's report had been completed and presented to government nearly six months prior to the board meeting. The evidence of both Mr. Kroeker and Mr. Lightbody was that Mr. Scott expressed concern that the results of the audit may be perceived as inconsistent with Dr. German's report, which concluded that "[f]or many years, certain Lower Mainland casinos unwittingly served as laundromats for the proceeds of organized crime."[102] Both Mr. Lightbody and Mr. Kroeker agreed that,

93 Ibid, exhibit 14.

94 Ibid, exhibit 14, p 1.

95 Ibid, exhibit 14, pp 15–19.

96 Ibid, p 1, exhibit 17; Exhibit 490, Kroeker #1, para 191.

97 Exhibit 484, deBruyckere #2, p 2, exhibit 17.

98 Ibid.

99 Exhibit 490, Kroeker #1, para 192; Evidence of R. Kroeker, Transcript, January 25, 2021, p 153.

100 Evidence of J. Lightbody, Transcript, January 28, 2021, p 95; Exhibit 490, Kroeker #1, para 192, exhibit 102; Evidence of R. Kroeker, Transcript, January 25, 2021, p 193.

101 Evidence of R. Kroeker, Transcript, January 25, 2021, pp 153–54.

102 Exhibit 832, *Dirty Money 1*, p 10.

at a subsequent board meeting on January 16, 2019, following the finalization of the report, there was some discussion as to how the report should be shared with Mr. Eby,[103] but they disagreed as to the character of that conversation. Whereas Mr. Kroeker understood the discussion to be focused on ensuring that the report could be shielded from public release,[104] Mr. Lightbody disagreed, testifying that no one at this meeting – or any other meeting – was seeking to keep the report out of the public domain.[105]

Mr. Scott's evidence was that he understood the Ernst & Young audit to have examined a money laundering typology different from that addressed in Dr. German's report.[106] As such, Mr. Scott testified that he was not concerned that the audit results contradicted Dr. German or would be problematic for government, but he was concerned that, if presented in isolation, it may be misconstrued by the media to indicate that the proceeds of crime were not being accepted in the province's casinos, which Mr. Scott did not understand to be among the findings of the audit.[107] Mr. Scott denied engaging in any discussion related to shielding the report from public view but did recall discussion of transferring the report to Mr. Eby under common interest privilege.[108] Mr. Scott recalled supporting the transfer of the report to Mr. Eby on a privileged basis, not because he was interested in preventing its public release but because he wanted to ensure that any privilege that may have existed was not waived unnecessarily.[109]

The report was ultimately transferred to Mr. Eby and, on February 28, 2019, Mr. Eby was briefed on the results of the audit.[110] Present for the briefing were Mr. Eby; Mr. Fyfe; Mr. Scott; new assistant deputy minister and general manager of GPEB, Sam MacLeod; Mr. Lightbody; Mr. Kroeker; new BCLC board chair, Peter Kappel; BCLC's director of internal audit, Gurmit Aujla; two of Mr. Eby's ministerial assistants; and two representatives of Ernst & Young, Peter Law and Bob Boyle.[111] Mr. Lightbody described the briefing in his evidence:[112]

> During the February 28, 2019, meeting, EY [Ernst & Young] and BCLC made a joint presentation to the Minister. I explained that there were three main money laundering risks in casinos: "classic" money laundering, in which cash is exchanged for a cheque; the Vancouver Model, in which players spend proceeds of crime unwittingly; and low-level smurfing. I explained

103 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 95–96; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 153–154; Exhibit 490, Kroeker #1, para 193.

104 Evidence of R. Kroeker, Transcript, January 25, 2021, pp 153–54.

105 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 95–96.

106 Exhibit 557, Affidavit #1 of Douglas Scott, made on February 3, 2021 [Scott #1], para 77.

107 Ibid, paras 77–78.

108 Ibid, para 79; Evidence of D. Scott, Transcript, February 8, 2021, pp 156–57.

109 Exhibit 557, Scott #1, para 79; Evidence of D. Scott, Transcript, February 8, 2021, pp 156–57.

110 Exhibit 505, Lightbody #1, para 234; Evidence of J. Lightbody, Transcript, January 28, 2021, p 94; Exhibit 490, Kroeker #1, para 194; Evidence of R. Kroeker, Transcript, January 25, 2021, p 152.

111 Exhibit 505, Lightbody #1, para 234; Evidence of J. Lightbody, Transcript, January 28, 2021, p 94; Exhibit 490, Kroeker #1, para 194; Evidence of R. Kroeker, Transcript, January 25, 2021, p 152.

112 Exhibit 505, Lightbody #1, para 235.

> that: EY's audit would address whether BCLC's controls for the "classic" model of money laundering were working or not; BCLC's source of funds requirements were addressing the "Vancouver Model" risk; and that BCLC had more work to do around the "low-level smurfing" or "retail" money laundering risk. Mr. Boyle then led the Minister through the results of the EY audit. Finally, Mr. Kappel asked the Minister about next steps following the results of EY's work.

Mr. Lightbody recalled that Mr. Eby asked a number of pointed questions about the typology addressed in the report, but when the BCLC representatives offered to conduct similar audits at other casinos, Mr. Eby agreed that it was not necessary to do so if the controls at those casinos were the same as were in place at the River Rock.[113]

While some of the witnesses present for this briefing had no memory of any discussion of whether and how the report should be released publicly,[114] Mr. Eby and Mr. Lightbody both recalled addressing the issue.[115] Mr. Lightbody's evidence was that Mr. Eby advised that it was BCLC's decision as to whether and how to release the report and that Mr. Eby did not object when Mr. Lightbody advised him of BCLC's intention to do so.[116] Mr. Eby's evidence was that when asked, he indicated his support for the public release of the report.[117]

In his evidence, Mr. Eby also discussed his reaction to the briefing and the audit.[118] Mr. Eby accepted that patrons were not systematically bringing bulk cash into casinos and converting that cash into cheques that could then be presented as casino winnings.[119] Mr. Eby did not see the results of the audit as being inconsistent with Dr. German's conclusions, which he understood to focus on a different money laundering typology.[120] Mr. Eby was concerned, however, that the report may be perceived as an indication that BCLC and government did not understand the nature of the problem identified by Dr. German.[121] Mr. Eby also indicated that, while it was appropriate for BCLC to examine this issue in light of the allegations that had appeared in media reporting,[122] he was surprised that BCLC had engaged an external firm to conduct this audit given the limited concern that this typology had attracted previously and the cost of engaging Ernst & Young for this purpose.[123]

113 Ibid, para 236.

114 Evidence of R. Fyfe, Transcript, April 29, 2021, p 43; Evidence of S. MacLeod, Transcript, April 19, 2021, p 24; Evidence of R. Kroeker, Transcript, January 25, 2021, p 155; Exhibit 490, Kroeker #1, para 194.

115 Exhibit 505, Lightbody #1, para 237; Evidence of J. Lightbody, Transcript, January 28, 2021, p 94; Evidence of D. Eby, Transcript, April 26, 2021, p 81.

116 Exhibit 505, Lightbody #1, para. 237; Evidence of J. Lightbody, Transcript, January 28, 2021, p 94.

117 Evidence of D. Eby, Transcript, April 26, 2021, p 81.

118 Ibid, pp 78–81, 106.

119 Ibid, pp 78–79.

120 Ibid, p 79.

121 Ibid, p 80.

122 Ibid, p 106.

123 Ibid, pp 80, 106.

Findings Regarding the Ernst & Young Cheque Audits

Despite the irregularities identified in the issuance of cheques at the River Rock Casino and, to a much lesser extent, at the Grand Villa Casino, the results of the audits seem to have been generally accepted by those within the gaming industry and government as indicative that the traditional cash-for-cheque money laundering typology examined was not a significant issue within the industry and that the media reporting to this effect was inaccurate.[124] I accept that the findings of these audits, while – in the case of River Rock – identifying several troubling anomalies, demonstrate that money laundering through a typology involving patrons buying-in with cash derived from crime and cashing out for cheques following no or minimal play was not occurring in any systematic way or at any significant level at the River Rock or Grand Villa casinos during the time periods examined.

I further find that there was concern within government – in particular, on the parts of Mr. Scott and Mr. Eby – that the results of the audit may have caused confusion among members of the public as to the nature and extent of the challenges associated with proceeds of crime and money laundering in the province's gaming industry and BCLC's understanding of the issue. These concerns were justifiable. By the time Ernst & Young's River Rock audit was completed, the public had recently learned of the results of Dr. German's review and, if not properly explained, the results of the audit may have been viewed to contradict Dr. German's conclusions, even though they did not.

Despite these concerns, I find that there was no effort on the part of government to prevent the public release of the Ernst & Young audit. On the contrary, I accept that Mr. Eby left the decision to BCLC and voiced no objection to their expressed intention to make the report public.

There is some debate about whether there was a discussion at the January 2019 BCLC board meeting about keeping the report from public view. While Mr. Lightbody did not recall any such discussion, based on Mr. Kroeker's evidence, which is supported by his contemporaneous notes, I accept that there was discussion at this meeting (at which neither Mr. Eby nor Mr. Fyfe were present) focused on privilege and leaving open the option for the minister to withhold the report from public view.

Mr. Kroeker's notes also reference Mr. Scott agreeing that the report "should come over to minister['s] office in that form [with] those measures in place." It is important to note, however, that it appears from Mr. Kroeker's notes that Mr. Scott was asked for his opinion only after the board had indicated a desire to ensure the report could be protected from public release and after the board had identified the assertion of some form of privilege as a means of doing so. In this regard, Mr. Kroeker's notes are consistent with Mr. Scott's evidence that he supported the transfer of the report under

124 Exhibit 490, Kroeker #1, paras 189, 191; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 150–51, 211; Exhibit 505, Lightbody #1, exhibit 102; Evidence of R. Fyfe, Transcript, April 29, 2021, p 42; Exhibit 557, Scott #1, para 77; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 89–90; Evidence of D. Eby, Transcript, April 26, 2021, pp 78–79.

common interest privilege to avoid the waiver of privilege, as he thought it unwise to waive any privilege without legal advice, given that he was not legally trained.[125] It is clear from the evidence before me that any desire to shield the report from public view was driven by the board and not by Mr. Scott or government more broadly. Further, there is no evidence before the Commission to suggest that Mr. Eby at any time sought to prevent the public release of the report or was even aware that methods of doing so were considered by the BCLC board. The only evidence of Mr. Eby's engagement in this issue demonstrates that he had no objection to its public release.

Resignation of Ross Alderson

A September 29, 2017, media report alleging that patrons were exchanging cash for cheques following no or minimal play in the province's casinos contained confidential information identified by BCLC as likely to have been leaked to the media from within one of BCLC, GPEB, or the RCMP.[126] The public release of this information was of concern to BCLC, GPEB, and government and was the beginning of a series of steps and communications that preceded the suspension and eventual resignation of Ross Alderson, then BCLC's director of anti–money laundering and investigations.

After learning of the apparently leaked information, Mr. Lightbody contacted Mr. Mazure and Mr. Fyfe to advise them of BCLC's concern that information was being leaked without authorization from within one of BCLC, GPEB, or the RCMP.[127]

On October 4, 2017, Mr. Lightbody and Mr. Mazure received a letter from Mr. Eby expressing concern about the impact of a possible information leak on an ongoing RCMP investigation and requesting that they reinforce within their organizations that "leaking information to journalists is grounds for immediate termination."[128] Mr. Lightbody conveyed this message to all BCLC staff in an email sent the same day.[129] Shortly afterward, Mr. Alderson was identified as the likely source of the leak. He was placed on leave on October 5, 2017, and BCLC staff were directed to have no contact with him.[130] Mr. Alderson was advised of the existence of BCLC's whistle-blower policy but declined to seek its protections.[131]

On October 16, 2017, BCLC's external counsel wrote to Mr. Fyfe advising that a BCLC employee was the source of the leak to the media and that some of the information disclosed may have been relevant to ongoing investigations into money laundering by GPEB and the RCMP.[132] The letter did not identify Mr. Alderson by name.[133] Mr. Eby

125 Evidence of D. Scott, Transcript, February 8, 2021, p 157.

126 Exhibit 505, Lightbody #1, para 344.

127 Ibid, para 345.

128 Ibid, para 346, exhibit 178; Evidence of R. Fyfe, Transcript, April 29, 2021, pp 15–16.

129 Exhibit 505, Lightbody #1.

130 Exhibit 148, Affidavit #1 of Daryl Tottenham, sworn on October 30, 2020 [Tottenham #1], para 223.

131 Exhibit 505, Lightbody #1, para 349; Evidence of R. Alderson, Transcript, September 10, 2021, p 35.

132 Exhibit 505, Lightbody #1, para 355, exhibits 184–85; Evidence of R. Fyfe, Transcript, April 29, 2021, p 14.

133 Exhibit 505, Lightbody #1, para 355, exhibits 184–85; Evidence of R. Fyfe, Transcript, April 29, 2021, p 14.

testified that this information gave rise to a challenging situation for government, as he understood that the BCLC employee had illegally disclosed confidential information to the media, but in doing so had prompted scrutiny of an important issue and as such may be perceived as a whistle-blower.[134]

In his evidence, Mr. Lightbody recalled participating in a conference call on December 14, 2017, with Mr. Eby, Mr. Fyfe, Mr. Eby's assistant Sam Godfrey, and Mr. Smith regarding Mr. Alderson's future with BCLC.[135] Mr. Lightbody recalled Mr. Eby asking if it was possible to prevent Mr. Alderson from speaking with the media, which Mr. Lightbody opposed due to concern about the possibility of perception that BCLC was trying to "muzzle" Mr. Alderson.[136] Mr. Lightbody inquired about the possibility of Mr. Alderson being transferred to GPEB or elsewhere in government.[137] These options were rejected, leaving only Mr. Alderson's termination or resignation as possible outcomes.[138] At no time did Mr. Eby or anyone else in government provide direction as to whether Mr. Alderson should or should not be terminated.[139]

The following day – December 15, 2017 – Mr. Lightbody participated in a meeting with Mr. Alderson.[140] Mr. Alderson resigned the same day.[141]

Complaint Against Robert Kroeker

On February 20, 2019, GPEB received an anonymous complaint regarding Mr. Kroeker.[142] The complaint, in its entirety, read as follows:[143]

> I have information that Robert Kroeker, vp compliance bclc instructed [B]al Bamra [manager, anti–money laundering intelligence for BCLC], Ross Anderson and Daryl Tottenham [manager of anti–money laundering programs for BCLC] to ease up on the bclc cash conditions on players and slow down the process of targeting suspicious buy ins[.]
>
> This occurred at bclc Vancouver office during a meeting involved AML. this suggests pressure was put on the bclc management team to allow dirty money to flow into casinos The persons involved should be able to provide further detail if handled with the utmost confidentiality particularly as

134 Evidence of D. Eby, Transcript, April 26, 2021, p 83.

135 Exhibit 505, Lightbody #1, para 357.

136 Ibid, para 257.

137 Ibid, para 357.

138 Ibid.

139 Ibid; Evidence of R. Fyfe, Transcript, April 29, 2021, pp 17–18; Evidence of D. Eby, Transcript, April 26, 2021, p 84.

140 Exhibit 505, Lightbody #1, paras 359–60.

141 Ibid.

142 Exhibit 504, Affidavit #1 of Cary Skrine, made on January 15, 2021 [Skrine #1], para 86; Evidence of C. Skrine, Transcript, January 27, 2021, p 83.

143 Exhibit 504, Skrine #1, exhibit S.

> Bamra and Tottenham are still gaming workers employed by Bclc. Please treat seriously.

The complaint was transmitted by email from an account bearing the name "Ela Amit."[144]

The complaint was assigned to Cary Skrine,[145] who was then the interim executive director of GPEB's new enforcement division,[146] the creation of which is discussed later in this chapter. On February 22, 2019, Mr. Skrine contacted the anonymous complainant, encouraging the complainant to contact him so that they could speak to Mr. Skrine and assist in assessing the credibility of the complaint.[147] The complainant declined to meet with Mr. Skrine, following which Mr. Skrine consulted with Mr. MacLeod. Mindful of GPEB's obligation not to commence vexatious investigations, Mr. Skrine determined that there were no grounds to commence an investigation.[148]

Due to the decision not to commence an investigation, no file was opened at this time with respect to this complaint.[149] Subsequently, a freedom of information (FOI) request from a member of the media was received by the Ministry of the Attorney General seeking records related to complaints received by GPEB alleging misconduct by BCLC executives with regards to responsibility for anti–money laundering duties or monitoring of patrons.[150] Because no file had been opened, the anonymous complaint about Mr. Kroeker was not identified in the ministry's attempts to locate records, and the response to the FOI request indicated that no responsive records were located.[151] Mr. Alderson subsequently alerted Mr. Scott to both the existence of the anonymous complaint and the response to the FOI request.[152] In his correspondence with Mr. Scott – and in his evidence before the Commission – Mr. Alderson implied that there may have been a deliberate attempt to cover up the allegation against Mr. Kroeker underlying the failure to disclose the anonymous complaint in response to the FOI request.[153] There is no basis whatsoever in the evidence before the Commission to support this theory, and I find that the failure to disclose the complaint in response to the FOI request was simply the product of administrative oversight.

At approximately the same time that Mr. Alderson was corresponding with Mr. Scott regarding the FOI request, Mr. Skrine learned from Mr. MacLeod that Mr. Alderson had confirmed to Mr. Scott that he was the "Mr. Anderson" referred to in the anonymous complaint.[154] Mr. Skrine did not learn at that time that Mr. Alderson was, in fact, the

144 Ibid.

145 Ibid, para 87, exhibit S.

146 Ibid, exhibit 18.

147 Ibid, para 88.

148 Ibid, para 90; Evidence of C. Skrine, Transcript, January 27, 2021, pp 83–84.

149 Exhibit 504, Skrine #1, paras 91–94.

150 Ibid, para 92.

151 Ibid, para 93.

152 Ibid, para 94, exhibit U.

153 Ibid; Evidence of R. Alderson, Transcript, September 9, 2021, pp 105, 111.

154 Exhibit 504, Skrine #1, para 96; Evidence of C. Skrine, Transcript, January 27, 2021, pp 86–87.

anonymous complainant,[155] though Mr. Alderson confirmed that he was in his evidence before the Commission.[156]

After learning that Mr. Alderson was the "Mr. Anderson" referred to in this complaint, Mr. Skrine decided to commence an investigation into the allegations against Mr. Kroeker[157] and arranged an interview with Mr. Alderson.[158] Mr. Skrine interviewed Mr. Alderson on July 9, 2019,[159] and subsequently obtained a written statement from Mr. Alderson[160] as well as an audio and video recorded statement.[161] In his written statement, Mr. Alderson indicated that, at a recurring meeting between Mr. Kroeker, Mr. Alderson, Ms. Bamra, and Mr. Tottenham, Mr. Kroeker had advised the other three that "it would be ok if we took a softer response to the conditions program."[162] Mr. Alderson indicated that he was shocked by this comment, as were Mr. Tottenham and Ms. Bamra, and that he understood it to be a request "to ease off placing players on cash conditions" due to the financial impact of the cash conditions program.[163] Mr. Skrine's evidence was that Mr. Alderson advised him that Ms. Bamra and Mr. Tottenham both expressed concern about the comments made by Mr. Kroeker and that Mr. Alderson advised both to make notes of the conversation.[164] Mr. Alderson also told Mr. Skrine that he had disclosed Mr. Kroeker's comments to his colleague Kevin Sweeney, BCLC director of security, privacy, and compliance.[165]

When Mr. Skrine met with Ms. Bamra and Mr. Tottenham, they both denied that Mr. Kroeker had ever said anything of the sort alleged by Mr. Alderson.[166] Both advised that the only notes of these recurring meetings were the meeting minutes taken by Ms. Bamra and that neither had independent notes.[167] The meeting minutes were produced to Mr. Skrine and did not contain any indication that Mr. Kroeker had made the remarks alleged by Mr. Alderson or any similar remarks.[168] Mr. Skrine also contacted Mr. Kroeker, who denied making the remarks,[169] and Mr. Sweeney, who denied that Mr. Alderson had told him of any such remarks by Mr. Kroeker.[170]

155 Evidence of C. Skrine, Transcript, January 27, 2021, pp 86–87.
156 Evidence of R. Alderson, Transcript, September 10, 2021, pp 83–84.
157 Exhibit 504, Skrine #1, para 99.
158 Ibid, paras 100–1.
159 Ibid, para 102; Evidence of C. Skrine, Transcript, January 27, 2021, p 87.
160 Exhibit 504, Skrine #1, para 102 and exhibit Y; Evidence of C. Skrine, Transcript, January 27, 2021, p 87.
161 Exhibit 504, Skrine #1, para 103 and exhibit Z.
162 Ibid, exhibit Y.
163 Ibid.
164 Ibid, para 107.
165 Ibid, para 116.
166 Ibid, para 108.
167 Ibid, para 109.
168 Ibid.
169 Ibid, paras 117–18 and exhibits KK, LL.
170 Ibid, para 116 and exhibit JJ; Evidence of C. Skrine, Transcript, January 27, 2021, pp 99–100.

As part of his investigation, Mr. Skrine obtained Mr. Alderson's notebooks from BCLC.[171] Mr. Skrine gave evidence that he was able to obtain a complete collection of Mr. Alderson's notebooks, with the exception of one notebook from 2017, but that he concluded that the statement alleged to have been made by Mr. Kroeker, if made at all, would not have been made during the time period covered by the missing notebook.[172] In his own evidence before the Commission, Mr. Alderson testified that he had destroyed the missing notebook prior to making the complaint about Mr. Kroeker, after discovering that it remained in his possession following his resignation, and that he had neglected to advise Mr. Skrine that he had done so.[173] Mr. Alderson was unsure whether the notebook would have covered the time in which he alleged Mr. Kroeker had made the comments of concern.[174]

Mr. Skrine ultimately concluded that there was no evidence to support the allegation made by Mr. Alderson and that the allegation was unfounded.[175] Mr. Skrine further concluded that "[b]y all accounts, the comments attributed to Kroeker run contrary to his historical views and actions on matters of this nature while employed by BCLC."[176]

Mr. Alderson, Mr. Kroeker, Ms. Bamra, and Mr. Tottenham all gave evidence before the Commission, Ms. Bamra by affidavit and the other three through a combination of affidavit and oral evidence. All four gave evidence consistent with the versions of events they provided to Mr. Skrine.

Mr. Alderson was uncertain of the date of the meeting at which the alleged comments were made, but believed that it was in early to mid-2017.[177] He testified that Mr. Kroeker's comments were to the effect that "it would be okay if we let things slide for a bit just to let things, you know, just delay some of the initiatives."[178] Mr. Alderson recalled that the comments were made around Chinese New Year or another major event expected to bring in significant revenue.[179] He testified that he did not recall Mr. Kroeker making any reference to revenue and could not remember – or did not know – which initiatives Mr. Kroeker was referring to.[180] Mr. Alderson says he did not discuss the comments with Mr. Kroeker and did not report the comments to Mr. Kroeker's superiors or to GPEB at the time.[181] His evidence was that he instructed Mr. Tottenham and Ms. Bamra to disregard Mr. Kroeker's remarks, "continue on doing what they were doing," and to

171 Exhibit 504, Skrine #1, para 111.

172 Ibid, paras 110–15.

173 Evidence of R. Alderson, Transcript, September 10, 2021, pp 84–85, 225–27.

174 Ibid, p 227.

175 Evidence of C. Skrine, Transcript, January 27, 2021, p 100; Evidence of R. Alderson, Transcript, September 10, 2021, p 104.

176 Evidence of C. Skrine, Transcript, January 27, 2021, p 100.

177 Evidence of R. Alderson, Transcript, September 9, 2021, p 50 and Transcript, September 10, 2021, p 78.

178 Evidence of R. Alderson, Transcript, September 9, 2021, p 47.

179 Ibid.

180 Ibid, pp 47–48.

181 Ibid, pp 37–38, 49–50, 105–8.

make notes of the conversation.[182] Mr. Alderson acknowledged that these comments were very out of character for Mr. Kroeker and that the meeting stood out to him because of how unusual the comments were.[183]

As indicated above, Mr. Alderson acknowledged in his evidence that he had submitted the anonymous complaint about Mr. Kroeker to GPEB.[184] He explained in his evidence that he did so in reaction to a letter that he found very upsetting, which he received from BCLC following his appearance on the *W5* television program.[185] In his evidence, Mr. Alderson described the letter and explained his reaction to it as follows:[186]

> [I]t alleged that what I said on that program was all lies and that that has now been corroborated by Stone Lee and Steven Beeksma, that I was dishonest. And at that time I was very well aware of comments being made by certain people, executives, and I was so disappointed at BCLC's letter. They alleged that I had contacted BCLC staff and asked them to provide confidential information with – not true. I certainly contacted staff and asked if they would acknowledge and support me, which is very, very different than asking them to release information or breach any policy of BCLC's. That's not what I asked. And that was not what was in the letter and the subsequent letter that was sent to the Attorney General. And I take real issue with that. So I was very angry after that, I received that letter, and knowing full well what Mr. Kroeker has said and what he was now denying and other comments that were made during my time there. I had tolerated it and let it go after that point. I mean, that was the primary reason I did it.

Mr. Alderson went on to elaborate on his reaction to this letter as follows:[187]

> [I]t upset me greatly. It is still the most unsettling and upsetting letter I've ever received. They threatened to sue me, they threatened for me to pay their legal fees, and based on lies. Things that have been now corroborated in this inquiry. You know, it was quite disgusting quite frankly. And Mr. Kroeker was part of that.

Mr. Kroeker, Mr. Tottenham, and Ms. Bamra all unequivocally denied that Mr. Kroeker made the comments attributed to him by Mr. Alderson.[188]

Based on the evidence before me, I am satisfied that Mr. Kroeker did not make the comments attributed to him by Mr. Alderson, or any similar comments. Three of the

182 Evidence of R. Alderson, Transcript, September 9, 2021, pp 48–49 and Transcript, September 10, 2021, p 83.

183 Evidence of R. Alderson, Transcript, September 9, 2021, pp 50–51 and Transcript, September 10, 2021, pp 100–101.

184 Evidence of R. Alderson, Transcript, September 10, 2021, pp 83–84.

185 Ibid, pp 89–91.

186 Ibid, pp 89–90.

187 Ibid, pp 90–91.

188 Exhibit 148, Tottenham #1, paras 221–22; Exhibit 490, Kroeker #1, para 292; Exhibit 143, Affidavit #1 of Bal Bamra, affirmed on October 14, 2020 [Bamra #1], para 10.

four individuals said to be present for the comments deny that they were made, and despite Mr. Alderson's assertions that he instructed Mr. Tottenham and Ms. Bamra to make notes of the comments, there is no evidence that any notes confirming the comments exist, even from Mr. Alderson himself. Mr. Sweeney, who Mr. Alderson says he told of Mr. Kroeker's comments, apparently denies that Mr. Alderson did so.

While Mr. Alderson's testimony, if believed, offers some evidence that the comments were made, I reject his evidence given the significant body of contradictory evidence, his rationale for making the complaint to GPEB, and the deceptive manner in which he conducted himself in doing so. Despite his evidence that he was shocked by Mr. Kroeker's comments and that Mr. Tottenham and Ms. Bamra shared his concern, Mr. Alderson failed to report the comments to GPEB until approximately two years after they were made, even though he acknowledged that he believed he had an obligation to do so.[189] Mr. Alderson testified that, when he did finally report the comments to GPEB, he did so because he was angry about a letter he had received from BCLC. While Mr. Alderson claimed that he was not motivated by spite,[190] it is difficult to interpret his evidence otherwise.

When Mr. Alderson did submit his complaint to the regulator, he did so anonymously, using an email account bearing the pseudonym "Ela Amit" and referring in the body of the complaint to a "Ross Anderson," clearly seeking to create confusion by misspelling his own name. When contacted by Mr. Skrine, Mr. Alderson initially declined to meet, citing concerns for his safety and his job. Mr. Alderson had resigned from his position with BCLC more than a year previously. When Mr. Alderson did eventually meet with Mr. Skrine, he did not identify himself as the anonymous complainant. It is difficult to see how Mr. Alderson's concerns, if genuine, could have applied to identifying himself as the source of the complaint, but not to providing Mr. Skrine with information consistent with the complaint. I find that, rather than having been motivated by a genuine concern for his employment, Mr. Alderson elected to make his complaint anonymously to try to manipulate the investigation of the complaint by presenting his own evidence as corroboration of an independent complaint, rather than the repetition of an allegation he had made himself. Finally, Mr. Alderson further deceived Mr. Skrine by advising him that BCLC was in possession of all of his notebooks when he knew that he had destroyed his final notebook prior to meeting with Mr. Skrine.[191] I do not find that Mr. Alderson destroyed the notebook for the purpose of obstructing the investigation. I accept his evidence that he did so because he simply did not want it in his possession following his resignation from BCLC, but I find that he was less than forthcoming with Mr. Skrine with respect to the status and location of his notebooks.

For these reasons, I reject the evidence of Mr. Alderson in this regard, and I agree with the results of the investigation conducted by Mr. Skrine. I accept the evidence of Mr. Kroeker, Mr. Tottenham, and Ms. Bamra that no comments as alleged by Mr. Alderson were ever made by Mr. Kroeker.

189 Evidence of R. Alderson, Transcript, September 10, 2021, p 91.

190 Ibid, p 90.

191 Evidence of R. Alderson, Transcript, September 10, 2021, pp 84–85, 88, 225–27.

Dr. German's Source-of-Funds Interim Recommendation

In appointing Dr. German to conduct his review, Mr. Eby had instructed Dr. German that "[r]ecommendations resulting from the review should be reported to the Attorney General as soon as they are ready; they should not be held pending submission of the final report."[192] Consistent with this direction, on November 29, 2017, approximately two months into his review, Dr. German delivered two interim recommendations to government as the review was ongoing:[193]

> 1. I recommend that Gaming Service Providers (GSPs) complete a source of funds declaration for cash deposits and bearer monetary instruments which exceed the FinTRAC threshold for Large Cash Transactions of $10,000. At a minimum, the declaration must outline a customer's identification and provide the source of their funds, including the financial institution and account from which the cash or financial instrument was sourced. In the case of new customers, after two transactions, cash should only be accepted from the customer if the veracity of the previous answers has been confirmed and is not considered suspicious.
>
> 2. I recommend that a GPEB investigator be on shift and available to the high volume casino operators in the Lower Mainland, on a 24/7 basis. The presence of the regulator will allow for the increased vigilance required in casinos. In particular, it will assist with source of fund issues, third party cash drops, and general support for GSPs and BCLC.

These two recommendations were announced by Mr. Eby on December 5, 2017.[194]

GPEB's response to the second of these recommendations will be addressed later in this Report along with the other changes made by GPEB made following the release of Dr. German's final report. The discussion that follows will focus on the implementation and impact of the first of these two interim recommendations.

Implementation of Dr. German's Source-of-Funds Recommendation

Following receipt of Dr. German's interim recommendations, BCLC moved quickly to implement the first of the two recommendations[195] and, in doing, so modified the proposed measures in order to strengthen the recommendation.[196] Mr. Lightbody

192 Exhibit 940, Fyfe Letter October 2017; Evidence of D. Eby, Transcript, April 26, 2021, pp 68–71, 179–80.

193 Exhibit 832, *Dirty Money 1*, p 247.

194 Exhibit 505, Lightbody #1, para 258.

195 Exhibit 490, Kroeker #1, para 229; Exhibit 505, Lightbody #1, paras 216–75 and exhibits 137–51.

196 Exhibit 78, Affidavit #1 of Steve Beeksma, affirmed on October 22, 2020, [Beeksma #1], para 82; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 75–76; Exhibit 490, Kroeker #1, paras 227–28; Exhibit 505, Lightbody #1, para 261.

gave evidence that, shortly after BCLC received the interim recommendations, Mr. Kroeker advised him that he believed that BCLC could go further and improve upon the first measure.[197] Mr. Kroeker gave evidence of two enhancements to Dr. German's recommendation that he sought to implement.[198] First, Mr. Kroeker did not believe that it was sufficient for BCLC to seek only a declaration of the source of funds used in transactions captured by the recommendation and should take the extra step of requiring proof of the source of funds used in those transactions through a requirement that the patron produce documentation from within the previous 48 hours indicating how the patron obtained the funds.[199] Second, Mr. Kroeker was opposed to the exemption for new customers provided for in Dr. German's recommendation and believed that proof of the source of funds used in transactions captured by the recommendation should be required for all customers.[200] I note that, as I read Dr. German's recommendation, it did not truly contemplate an exemption for new customers, but instead contemplated that, after two transactions, the declarations provided by new customers would be scrutinized and that cash should only be accepted from the customer thereafter if the veracity of their previous answers could be confirmed and were not suspicious.

Mr. Kroeker also testified that BCLC decided to retain its existing cash conditions program, described at length in Chapter 11.[201] His evidence was that, in his view, the effect of Dr. German's recommendation was to transform BCLC's existing risk-based cash conditions program into a prescriptive requirement applicable to all transactions of $10,000 or more.[202] Mr. Kroeker explained that Dr. German's recommendation was more lenient than the existing cash conditions program in the sense that the cash conditions program applied to *all* transactions involving patrons placed on conditions, regardless of amount, including transactions under $10,000 that would not be captured by Dr. German's recommendation.[203] For this reason, replacing the existing cash conditions program with the measure recommended by Dr. German was beyond BCLC's risk tolerance, and BCLC retained the cash conditions program.[204] I do not read Dr. German's recommendation as including that the cash conditions program be eliminated and am unaware of any evidence supporting that it did.

According to Mr. Lightbody, BCLC contacted Dr. German and obtained his agreement to these modifications to his recommendation.[205] BCLC then contacted GPEB to discuss implementation of the recommendation and BCLC's proposed modifications.[206]

197 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 75–76.

198 Exhibit 490, Kroeker #1, paras 226–28.

199 Ibid, para 228; Exhibit 78, Beeksma #1, para 82; Evidence of S. Lee, Transcript, October 27, 2020, p 41; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 75–76.

200 Exhibit 490, Kroeker #1, paras 226–27.

201 Ibid, paras 222–23.

202 Ibid, para 222.

203 Ibid, paras 224–27.

204 Ibid, paras 223–27.

205 Evidence of J. Lightbody, Transcript, January 28, 2021, p 75.

206 Ibid, p 76; Exhibit 505, Lightbody #1, para 261.

In a memorandum dated December 11, 2017, Mr. Kroeker advised Mr. Lightbody that it would be possible to implement Dr. German's recommendation by December 18, 2017.[207] BCLC prepared a directive to gaming service providers to this effect.[208] The memorandum and directive were provided to both Dr. German and GPEB on December 12, 2017.[209] In response, GPEB sent BCLC several questions and comments on December 15, 2017, which BCLC answered on December 19, 2017.[210]

On December 27, 2017, GPEB wrote to BCLC again, confirming that most of their questions had been answered and providing several recommendations.[211] GPEB's letter attached particular significance to a recommendation that patrons conducting transactions of $10,000 or more – to which the new requirement to provide proof of the source of funds would apply – be required to sign a "source of funds declaration" form themselves.[212] GPEB indicated that it would be unable to support BCLC's proposed implementation of Dr. German's recommendation in the absence of this change to the proposal.[213] Mr. Lightbody responded on January 2, 2018, making it clear that he viewed the requirement of a patron's signature as unnecessary, but that BCLC would nonetheless implement this change to its proposal.[214] Two days later, GPEB responded, confirming that it supported implementation of the recommendation with this measure in place, but continued to encourage BCLC to consider the other recommendations made by GPEB.[215] BCLC subsequently issued a directive to service providers implementing Dr. German's recommendation, effective January 10, 2018.[216]

It is evident that the delay resulting from GPEB's review and approval of BCLC's proposal to implement Dr. German's recommendation caused some frustration within BCLC.[217] In light of how quickly BCLC moved to implement this recommendation and the delay of nearly one month resulting from GPEB's involvement, this frustration is understandable. However, given the importance of this measure, GPEB's role in the gaming industry, and BCLC's prior skepticism of measures of the sort recommended by Dr. German, it was entirely appropriate for GPEB to provide oversight of BCLC's implementation of this measure and to do so in a rigorous and meaningful way. While BCLC was confident in its plan to implement the recommendation and may have preferred that GPEB simply rubber-stamp that plan, it would not have been appropriate, in my view, for GPEB to have approved the proposal without careful review and meaningful engagement with its contents. The record before me shows that

207 Exhibit 505, Lightbody #1, exhibit 140.
208 Exhibit 490, Kroeker #1, exhibit 126.
209 Exhibit 505, Lightbody #1, exhibits 139, 140.
210 Ibid, exhibits 143, 145.
211 Ibid, exhibit 147.
212 Ibid.
213 Ibid.
214 Ibid, exhibit 148.
215 Ibid, exhibit 149.
216 Ibid, exhibit 152.
217 Exhibit 490, Kroeker #1, para 229; Exhibit 505, Lightbody #1, exhibit 146.

both organizations worked expeditiously to refine and implement the proposal and, while I am unable to say with certainty whether GPEB's involvement led to practical improvements in the implementation of the policy, I have no doubt that the additional level of review and oversight it provided sufficiently enhanced the process by which the recommendation was implemented, such that it was worth the resulting delay.

There were initial challenges in implementing BCLC's directive giving effect to Dr. German's first interim recommendation.[218] These challenges seem to have stemmed in part from difficulties in tracking buy-ins made in locations in casinos other than the cash cage.[219] Both BCLC and GPEB began monitoring compliance and soon resolved any significant issues.[220] The challenges in implementing the new directive were not isolated to any one service provider, and there is no evidence that they were the result of any resistance to or desire to obstruct implementation of the new measures. I find that all parties involved worked diligently to comply with the new directive and any shortcomings in these efforts were simply the sort of "growing pains"[221] one would expect in the implementation of an unfamiliar and significant new requirement in any regulated industry.

Impact of Dr. German's First Interim Recommendation

There was some division in the views of witnesses who commented on the impact of Dr. German's first interim recommendation. While several witnesses gave evidence that the implementation of the recommendation had a dramatic impact on both the volume of cash entering casinos and the frequency of suspicious transactions,[222] others indicated that the impact was more modest and that the bulk of the reduction in large and suspicious cash transactions was the result of the cash conditions program initially implemented in 2015.[223]

Some insight into the impact of this measure is offered by the data produced by BCLC that was relied on previously to assess the impact of the cash conditions program. While, as discussed above, it cannot be assumed that all changes in reporting data are entirely the result of the implementation of Dr. German's recommendation, the timing of that implementation corresponds with a fairly bright line drop in large and suspicious cash transactions. The evidence of those operating in the industry of the changes that they observed following the implementation of the recommendation provides further insight into the effect of the measure.

218 Exhibit 505, Lightbody #1, paras 279–80, 285; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 32–33, 122.

219 Exhibit 505, Lightbody #1, para 285; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 82–83.

220 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 82–83.

221 Evidence of S. MacLeod, Transcript, April 19, 2021, pp 34–35.

222 Exhibit 78, Beeksma #1, paras 82–83; Evidence of Steven Beeksma, Transcript, October 26, 2020, p 82; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 64, 76–77; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 35, 37–38.

223 Exhibit 490, Kroeker #1, para 230; Exhibit 522, Desmarais #1, para 109 [Desmarais #1]; Evidence of Steven Beeksma, Transcript, October 26, 2020, pp 147–48; Exhibit 87, Affidavit #1 of Stone Lee, sworn on October 23, 2020 [S. Lee #1], para. 73; Evidence of S. Lee, Transcript, October 27, 2020, pp 61–62, 118–20.

Impact on Suspicious Transactions

Table 12.1 below set out the number of suspicious transaction reports submitted to FINTRAC by BCLC following the implementation of Dr. German's first interim recommendation in January 2018 until the end of 2019. More recent data is not available and would be of little assistance, given the closure of the province's casinos due to the COVID-19 pandemic in March 2020. To assist in evaluating the effects of this recommendation compared to those of the cash conditions program, comparable data beginning in January 2015 are also included. Accordingly, the first part of Table 12.1 reproduces a table found earlier in this report. The new data are indicated by bold text:[224]

Table 12.1: Number of Suspicious Transaction Reports (STRs), January 2014–December 2019

Time Period	Total STRs	STRs $50,001–$100,000	STRs over $100,000
Jan–Jun 2014	733	207	270
Jul–Dec 2014	898	286	325
Jan–Jun 2015	954	312	319
Jul–Dec 2015	783	212	208
Jan–Jun 2016	1,008	165	115
Jul–Dec 2016	641	92	46
Jan–Jun 2017	618	71	44
Jul–Dec 2017	427	87	32
Jan–Jun 2018	**110**	**3**	**2**
Jul–Dec 2018	**180**	**3**	**1**
Jan–Jun 2019	**106**	**2**	**6**
Jul–Dec 2019	**116**	**1**	**14**

Source: Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2020, exhibit A.

Changes to the cumulative value of suspicious transactions in these years are set out in Table 12.2.[225] These figures include e-gaming and "external request" suspicious transaction reports, in addition to those from land-based casinos.[226]

224 Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2020 [Cuglietta #1], exhibit A.
225 Exhibit 784, Affidavit #2 of Cathy Cuglietta, sworn on March 8, 2021 [Cuglietta #2], exhibit A.
226 Exhibit 482, Cuglietta #1, para 6.

Table 12.2: Value of Suspicious Transactions Reported Annually, 2014–2019

Year	Total Value of Transactions Reported as Suspicious
2014	$195,282,332
2015	$183,841,853
2016	$79,458,118
2017	$45,300,463
2018	**$5,520,550**
2019	**$53,879,973**

Source: Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2020, exhibit A.

The data suggest that the initial impact of the implementation of Dr. German's first interim recommendation included a substantial reduction, to negligible levels, in suspicious transaction reporting, both in terms of the number of reports and the total value of the transactions that were the subject of those reports. While the value of such transactions for 2019 suggests a substantial rebound in such transactions in that year, it is important to note that this data is not limited to suspicious transactions conducted with cash in casinos. For example, suspicious transactions connected to e-gaming are also included in this data.[227] Closer scrutiny of the data available suggests that this increase was not the result of increases in cash transactions. Of the $58,879,973 in suspicious transactions reported for 2019, over $48 million was reported in the months of October and November alone, while the values reported over the course of the remainder of the year are generally consistent with values reported for 2018.[228] These significant increases in the value of suspicious transactions are not matched by similar increases in the value of large cash transactions reported in the same months. In fact, the value of suspicious transactions during these months *exceeded* the total value of large cash transactions. As such, it seems clear that an increase in large cash transactions was not the source of the increase in the value of suspicious transactions at the end of 2019.[229]

The data should also be considered in the context of evidence that some of those working in the gaming industry at this time were concerned that Dr. German's recommendation had led to over-reporting, as transactions were identified as suspicious where patrons sought to avoid the source-of-funds receipting requirement,

227 Exhibit 784, Cuglietta #2, exhibit A.

228 Ibid.

229 Ibid.

but were suspected of trying to avoid FINTRAC reporting.[230] Mr. Kroeker described the basis for these concerns in his evidence:[231]

> Following its implementation, I grew concerned that the [source-of-funds] Directive was leading to an increase in STRs as players tried to stay under the $10,000 buy-in mark. BCLC interviewed these players, some of whom indicated that they were buying in just below $10,000 because they did not want to provide the casino with their banking information or wanted to avoid the inconvenience of providing a receipt. This however made it look as though they were structuring their transactions to avoid FinTRAC thresholds, which required the transactions to be reported as suspicious.

It is not possible, based on the evidence before the Commission, to determine the extent to which suspicious transaction reports following the implementation of Dr. German's recommendation could be attributed to the phenomenon described by Mr. Kroeker. However, it seems likely, based on this evidence, that some of the reporting during this time period was the product of the measures introduced in response to Dr. German's recommendation and that the impact of those measures on transactions that would have been reported in their absence was even more pronounced than suggested by the data set out above.

I heard differing views on whether the cash conditions program or Dr. German's first interim recommendation was more instrumental in reducing large, suspicious cash transactions. The cash conditions program pursued by BCLC since 2015 made incremental progress in reducing the number and cumulative value of large, suspicious cash transactions, such that after three years there had been a significant reduction, but not elimination, of such transactions. In contrast, Dr. German's interim recommendation, which was implemented when the industry was still plagued by an unacceptable level of large, suspicious cash transactions, essentially put an immediate end to such transactions, ridding the industry of the problem of money laundering through large, suspicious cash transactions, which it had wrestled with for the better part of a decade.

Impact on Large Cash Transactions

The impact of Dr. German's first interim recommendation is also observed in large cash transactions. Data for large cash transactions prior to and following implementation of this recommendation are set out in Table 12.3:[232]

230 Evidence of S. Lee, Transcript, October 27, 2020, pp 119–120; Exhibit 490, Kroeker #1, para 231.

231 Exhibit 490, Kroeker #1, para 231.

232 Exhibit 482, Cuglietta #1, exhibit A.

Table 12.3: Number of Large Cash Transaction Reports (LCTRs), 2014–2019

Time Period	Total LCTRs	LCTRs $50,001–$100,000	LCTRs over $100,000
Jan–Jun 2014	17,400	1,226	1,013
Jul–Dec 2014	17,320	1,176	868
Jan–Jun 2015	17,739	1,208	793
Jul–Dec 2015	17,917	907	669
Jan–Jun 2016	19,479	796	470
Jul–Dec 2016	18,117	313	192
Jan–Jun 2017	18,142	221	67
Jul–Dec 2017	18,477	231	72
Jan–Jun 2018	**7,307**	**48**	**9**
Jul–Dec 2018	**6,204**	**11**	**1**
Jan–Jun 2019	**4,469**	**16**	**2**
Jul–Dec 2019	**5,500**	**27**	**11**

Source: Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2020, exhibit A.

Changes to the total value of large cash transactions reported during this time period are set out in Table 12.4:[233]

Table 12.4: Value of Large Cash Transactions Reported Annually, 2014–2019

Year	Total Value of Transactions Reported as Large Cash Transactions
2014	$1,184,603,543
2015	$968,145,428
2016	$739,620,654
2017	$514,171,075
2018	**$173,836,139**
2019	**$130,112,898**

Source: Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2020, exhibit A.

233 Exhibit 784, Cuglietta #2, p 4; see also Exhibit 482, Cuglietta #1, exhibit A.

Impact on Revenue

This differential impact on large cash transactions – as opposed to suspicious transactions – hints at a possible impact on casino revenue. This impact on business, at least at the River Rock Casino,[234] was referred to directly in some of the evidence before the Commission. Mr. Doyle, for example, identified that Dr. German's recommendation resulted in a decrease in Great Canadian Gaming Corporation's gross gaming revenue from the River Rock Casino.[235] Similarly, Mr. Ennis recalled that Dr. German's recommendation led to a drop-off in business at the River Rock,[236] particularly among patrons playing in the $10,000 to $25,000 range, many of whom reduced their play to below the $10,000 source-of-funds threshold.[237] Mr. Lightbody recalled that the measures led to a reduction in high-limit table revenue, but that this reduction did not materially affect BCLC's overall revenue.[238]

Data provided by BCLC is consistent with Mr. Lightbody's evidence that these measures led to a decline in table games revenue, as indicated in Table 12.5:[239]

Table 12.5: BCLC Annual Gaming Revenue, 2014–2019

Year	BCLC Total Gaming Revenue	BCLC Casino Revenue	BCLC Casino Table Games Revenue
2014	$2,199,888,811.50	$1,715,659,976.61	$552,298,271.88
2015	$2,320,955,600.66	$1,753,783,201.60	$547,846,607.14
2016	$2,374,235,661.38	$1,799,626,701.64	$519,231,380.60
2017	$2,465,003,394.96	$1,877,201,427.69	$512,566,847.13
2018	**$2,621,696,561.41**	**$1,946,359,044.22**	**$499,852,938.75**
2019	**$2,573,202,084.79**	**$1,908,484,756.52**	**$457,995,689.42**

Source: Exhibit 785, Affidavit #1 of Richard Block, affirmed on March 9, 2021.

As discussed previously with respect to the revenue impact of the cash conditions program, it is important to bear in mind that anti–money laundering measures are only one of many factors that influence revenue, and it would be incorrect to assume that any changes in revenue can be attributed solely or primarily to the measures implemented following Dr. German's recommendation. As an example, the implementation of Dr. German's recommendation coincided with changes to operational services agreements with gaming service providers that resulted in the Province retaining a greater share of high-limit table game revenue, which might have caused service providers to shift their focus away from

234 Exhibit 530, Affidavit #1 of Patrick Ennis, made on January 22, 2021 [Ennis #1], para 103.

235 Evidence of T. Doyle, Transcript, February 10, 2021, p 61.

236 Exhibit 530, Ennis #1, para 100.

237 Ibid, para 1010.

238 Evidence of J. Lightbody, Transcript, January 28, 2021, p 77.

239 Exhibit 785, Affidavit #1 of Richard Block, affirmed on March 9, 2021 [Block #1], exhibit A.

this line of business.[240] Still, the revenue data set out above, together with the evidence of those operating in the industry at the time, suggest that Mr. Lightbody was correct in his assessment that implementation of Dr. German's first recommendation led to a decline in casino table games revenue.

Table 12.6 sets out annual revenue for the five major Lower Mainland casinos (rounded to the nearest dollar):[241]

Table 12.6: Annual Revenue for Lower Mainland Casinos, 2014–2019

Year	Hard Rock / Boulevard	Grand Villa	Starlight	River Rock	Parq Vancouver / Edgewater
2014	$123,410,821	$193,491,767	$105,389,182	$416,917,884	$140,715,164
2015	$133,105,863	$204,073,275	$116,887,610	$375,795,284	$159,551,177
2016	$149,332,256	$202,752,704	$124,745,678	$339,895,294	$165,909,895
2017	$158,941,195	$215,377,969	$127,355,250	$331,910,492	$175,189,007
2018	**$138,797,528**	**$244,656,853**	**$128,974,815**	**$328,288,140**	**$203,438,990**
2019	**$149,720,931**	**$239,694,388**	**$125,353,993**	**$304,233,779**	**$174,415,032**

Source: Exhibit 785, Affidavit #1 of Richard Block, affirmed on March 9, 2021.

The impact of Dr. German's source-of-funds recommendation is difficult to discern from this table. While it appears to corroborate the evidence of Mr. Doyle and Mr. Ennis that the new measures negatively affected River Rock Casino revenue, the data for the other four casinos suggests that there were other factors at play during this time period. Revenue for each of the Grand Villa, Starlight, and Parq Vancouver casinos increased in 2018 (the first full year of Parq's existence), before falling in 2019, while revenue for the Hard Rock fell from 2017 to 2018 before rebounding in 2019. It seems highly unlikely that these trends are attributable solely to the new source-of-funds measures and it is impossible, based on the evidence before the Commission, to determine the extent and the nature of that impact.

BCLC Proposals for Further Enhancements to the AML Regime

Following receipt of Dr. German's interim recommendations, and while Dr. German's review was ongoing, BCLC proposed several additional measures intended to reduce the risk of money laundering in the province's casinos. These measures included a hard cap on the value of cash buy-ins and payouts, removal of limits on the amount

240 Evidence of R. Kroeker, Transcript, January 26, 2021, pp 122–23; Evidence of R. Fyfe, Transcript, April 29, 2021, pp 64–65, 67.

241 Exhibit 785, Block #1, exhibit A.

that could be paid out by convenience cheque, elimination of minimum deposits for PGF accounts, and a ban on the acceptance of cash sourced to money services businesses.[242] I discuss these proposals below.

Proposed Hard Cap on Cash Buy-Ins

Mr. Lightbody explained that, after BCLC received Dr. German's interim recommendations, he was advised by Mr. Kroeker and Mr. Desmarais that implementation of the recommendation meant that BCLC would be moving away from a strictly "risk-based" anti–money laundering program.[243] According to Mr. Lightbody, this came as a surprise to Mr. Desmarais and Mr. Kroeker, who expected that Dr. German would favour risk-based approaches given his anti–money laundering expertise.[244] Mr. Lightbody's evidence was that these comments prompted him to ask his two vice-presidents whether there were additional measures that BCLC could implement to mitigate concerns related to unsourced cash if it was no longer strictly adhering to a risk-based approach to anti–money laundering.[245] Mr. Desmarais and Mr. Kroeker advised that they had been considering a hard cap on cash buy-ins.[246]

In his evidence, Mr. Kroeker explained that he had begun discussing the idea of a hard cap on cash buy-ins with Mr. Desmarais the previous fall.[247] Mr. Kroeker's evidence was that the public and political discourse at that time indicated to him that a strictly risk-based approach may no longer have been acceptable in British Columbia and that there may have been a need to move toward more prescriptive approaches, despite FINTRAC guidance that measures such as cash caps were not required.[248] Mr. Lightbody's evidence was that this work had begun in anticipation of receiving direction from GPEB that BCLC implement a cash cap in response to a recommendation made in the report prepared by MNP, discussed in Chapter 13.[249]

Even before Mr. Kroeker and Mr. Desmarais raised the issue with Mr. Lightbody, efforts to examine the option of a hard cap on cash buy-ins had advanced to the point where BCLC had obtained two separate analyses of the revenue impact of imposing cash caps at different monetary values.[250] The first of these was an analysis prepared by consulting firm HLT Advisory, which concluded that a cash cap set at $10,000 would have resulted in a loss in "net win" between $34.6 million and $87.7 million annually

242 Evidence of R. Kroeker, Transcript, January 26, 2021, p 199 and Transcript, January 25, 2021, pp 144, 148, 155; Exhibit 490, Kroeker #1, paras 146, 201, 217.

243 Exhibit 505, Lightbody #1, para 291.

244 Ibid.

245 Ibid.

246 Ibid.

247 Exhibit 490, Kroeker #1, para 198.

248 Ibid, para 198; Evidence of R. Kroeker, Transcript, January 26, 2021, p 198.

249 Evidence of J. Lightbody, Transcript, January 29, 2021, p 79.

250 Exhibit 490, Kroeker #1, paras 199–200 and exhibits 108, 109.

and a total annual income loss to BCLC of $18.6 million to $47.2 million.[251] The analysis also considered potential losses to service providers, concluding that Great Canadian Gaming Corporation would have lost $7.8 million to $19.9 million, Gateway Casinos & Entertainment Limited $3.1 million to $8.8 million, and the Parq Vancouver Casino $3.4 million to $8.8 million.[252]

BCLC also sought insight from HLT Advisory as to job losses that may have resulted from the lost business.[253] HLT estimated that the equivalent of approximately 50 full-time positions would be lost if a $10,000 hard cap on cash buy-ins was implemented.[254] This additional information was provided in an exchange of emails between Mr. Desmarais and the managing director of HLT Advisory, Robert Scarpelli.[255] The exchange suggests that this analysis was sought in part to arm BCLC to argue *against* the imposition of a hard cap on cash buy-ins if proposed by GPEB. When requesting the analysis, Mr. Desmarais advised that the data was "just something to have in our back pocket during conversations with government," while in his response, Mr. Scarpelli seemed to advise Mr. Desmarais as to how BCLC could use this information to oppose a cash cap:[256]

> Just have to be aware that this issue is a double edge sword … if employment loss is significant, then Minister can say that [service providers] can reduce costs to minimize impact on operations … better argument to say staff loss is minimum and revenue loss will drop right to bottom line of [service providers] … the return on investment argument probably better … that is where we ended up at in our thinking.

In his evidence before the Commission, Mr. Desmarais denied that BCLC intended to use potential job losses to dissuade government from imposing a cash cap and attempted to cast these emails as a neutral attempt to gather information about the possible implications of such a measure.[257] I cannot reconcile these emails with Mr. Desmarais's explanation and find that the HLT Advisory analysis – including with respect to potential job losses – was obtained at least in part in the hope that it would arm BCLC with information it could use to argue against the imposition of a hard cash cap if proposed by GPEB.

The second analysis was conducted internally by BCLC's casino unit[258] and examined the financial impact of a cap set at $20,000.[259] This analysis concluded that the resulting

251 Ibid, p 825, exhibit 109.

252 Ibid.

253 Exhibit 526, Email exchange between Brad Desmarais to Robert Scarpelli, re SP Job Loss in the Event of Reduction of High Limit Rooms and/or Elimination of Cash Buy–Ins over $10K (October 12, 2017) [Desmarais Email October 2017]; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 40–41.

254 Exhibit 526, Desmarais Email October 2017; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 40–41.

255 Exhibit 526, Desmarais Email October 2017.

256 Ibid.

257 Evidence of B. Desmarais, Transcript, February 2, 2021, pp 40–41.

258 Exhibit 490, Kroeker #1, para 199.

259 Ibid, exhibit 108.

decline in net win would likely be between $23 million and $42 million annually, with the most likely scenario being a decline of $29 million.[260] In his evidence, Mr. Kroeker described this analysis as concluding that a cash cap set between $20,000 and $25,000 would almost entirely eliminate very large, concerning cash transactions "while allowing the business to operate," whereas "an immediate move to a cash cap below $25,000 could create a risk that one or more service providers could become insolvent."[261]

Based on these analyses, BCLC concluded that $25,000 was the appropriate value for a hard cap on cash buy-ins in the province's casinos.[262] The rationale for setting the cap at this level was explained by Mr. Lightbody:[263]

> Prior to January 17, 2018, I received advice and rationale from Mr. Kroeker and Mr. Desmarais about a $25,000 cash cap. I was advised that 94% of cash entering casinos was in amounts under $25,000 and it represented 77% of the dollar value of large cash transactions. A cap at $25,000 would eliminate bulk cash over that amount and allow BCLC to focus its large cash transaction Know your Customer requirement for FinTRAC. I recall that Mr. Kroeker and Mr. Desmarais advised me that, in the course of their review, they looked at player risk levels and found that the vast majority of players buying in under $25,000 were either low or no risk, whereas players bringing in over $25,000 were rated as medium or high risk. A $25,000 cash cap thus made sense. I learned that Mr. Kroeker and Mr. Desmarais had initial conversations with Service Providers about a $25,000 cash cap, and that while they were not happy they understood the need. I also learned that Mr. Kroeker and Mr. Desmarais had discussions with FinTRAC who advised it was appropriate to do enhanced due diligence on buy ins over $25,000.

While there is some inconsistency in the evidence as to precisely when the decision to pursue this measure was made,[264] it seems clear that by the first week of January 2018 at the latest, Mr. Lightbody, Mr. Kroeker, and Mr. Desmarais had agreed to move forward with it.[265] On January 12, 2018 – two days after the implementation of Dr. German's interim recommendation – Mr. Lightbody raised with Mr. Scott and Mr. Fyfe the prospect of a $25,000 cash cap and advised that further information would be forthcoming in the near future.[266]

Five days later, on January 17, 2018, Mr. Lightbody provided the additional information promised. He advised Mr. Fyfe and Mr. Godfrey that BCLC had decided to implement a $25,000 hard cap on cash buy-ins and shared the rationale he had been

260 Ibid.

261 Ibid, para 199 and exhibit 110.

262 Ibid, para 201; Evidence of R. Kroeker, Transcript, January 25, 2021, p 144.

263 Exhibit 505, Lightbody #1, para 295.

264 Exhibit 490, Kroeker #1, para 201; Evidence of R. Kroeker, Transcript, January 25, 2021, p 144; Exhibit 505, Lightbody #1, para 292.

265 Exhibit 490, Kroeker #1, para 201; Evidence of R. Kroeker, Transcript, January 25, 2021, p 144; Exhibit 505, Lightbody #1, para 292.

266 Exhibit 505, Lightbody #1, para 294.

provided by Mr. Desmarais and Mr. Kroeker.[267] Mr. Lightbody also advised that he had shared this intention with Mr. Mazure of GPEB and that Mr. Mazure had no concerns about the initiative.[268]

Later that day, Mr. Lightbody received a phone call from Mr. Fyfe about the proposal.[269] Mr. Lightbody's evidence was that Mr. Fyfe advised him that Mr. Eby was unhappy that the cash cap proposal had come forward while Dr. German's review was underway.[270] Mr. Fyfe asked Mr. Lightbody not to proceed with the proposal until he had spoken with Dr. German.[271] This response was concerning to Mr. Lightbody, who understood from previous conversations with Dr. German "that [Dr. German] did not want to stop BCLC from doing its work."[272]

Mr. Fyfe's evidence was generally consistent with that of Mr. Lightbody. He recalled discussing the cash cap proposal with Mr. Lightbody and passing the information on to Mr. Eby.[273] Mr. Fyfe recalls that Mr. Eby was concerned about new initiatives being implemented while Dr. German's review was ongoing and asked Mr. Fyfe to convey those concerns to Mr. Lightbody, which he did.[274] In his evidence, Mr. Fyfe confirmed that it was not the substance of the proposal, but rather the timing and the risk that any measures implemented at that time may have proved inconsistent with Dr. German's eventual recommendations that was of concern to Mr. Eby.[275] Mr. Scott was also involved in these communications. His evidence was consistent with that of Mr. Fyfe in this regard.[276]

Mr. Eby also gave evidence of his reaction to learning of BCLC's intention to implement a cap on cash transactions.[277] Mr. Eby agreed that he directed BCLC to pause implementation of the cash cap and to consult with Dr. German on the measure.[278] Mr. Eby explained the basis for this direction as follows:[279]

> [M]y concern was that BCLC had not had sufficient time to evaluate his policy proposals. They were not on the radar in any of our previous discussions, they were not previous policy proposals from the BC Lottery Corporation. I didn't know all the background … what work they'd done to bring this forward as an option compared to many of the other recommendations

267 Ibid, para 297.

268 Ibid, para 297 and exhibit 159.

269 Ibid, para 298.

270 Ibid.

271 Ibid; Evidence of D. Scott, Transcript, February 8, 2021, pp 147–49.

272 Exhibit 505, Lightbody #1, para 298; Exhibit 515, Five pages of notes of James Lightbody, dated 1–17–18, pp 55, 56, 60, 63, 64; Exhibit 516, One page of notes of James Lightbody, dated 1–17–18, p 54; Exhibit 490, Kroeker #1, paras 202, 204; Evidence of R. Kroeker, Transcript, January 26, 2021, p 203.

273 Evidence of R. Fyfe, Transcript, April 29, 2021, pp 32–33, 54–55.

274 Ibid.

275 Ibid, pp 37–38, 104.

276 Evidence of D. Scott, Transcript, February 8, 2021, pp 148–49, 184–85, 192–93.

277 Evidence of R. Fyfe, Transcript, April 29, 2021, pp 71–73.

278 Ibid, p 72.

279 Ibid, pp 72–73.

> that I'd had. And it was something that I'd asked Dr. German to take on, which is to evaluate all these different policy responses to the problem that we faced and to provide the best recommendations to government about how to move forward. And so, I suggested to them that … if they thought that this was the way forward that they should present that to Dr. German and he would be advising me on that.

Consistent with Mr. Fyfe's evidence, Mr. Eby explained that the source of his concern was not the substance of the proposal, but rather BCLC's failure to engage with the process being undertaken by Dr. German:[280]

> No, I wasn't furious that they were proposing a cash cap. I was definitely frustrated that they didn't seem to understand the process that I had set up where Dr. German would be evaluating policy recommendations and advising government on the best path forward. I thought that they should be interacting directly with Dr. German and that they should be having active conversations about the best policy route forward with the Gaming Policy [and] Enforcement Branch and any other experts that Dr. German wanted to talk to about the best way forward. My vision had been that there would be this conversation and evaluation and an iterative process between all of these different actors and Dr. German would be doing that work through his review, and so my frustration was that that didn't seem to be registering with the BC Lottery Corporation.

As requested by Mr. Eby, Mr. Lightbody contacted Dr. German to seek his views on BCLC's proposed cash cap.[281] Mr. Lightbody's evidence was that Dr. German advised against implementing the cash cap contemplated by BCLC, as it had not yet had an opportunity to observe the impact of the measures implemented in response to Dr. German's first interim recommendation.[282] Mr. Lightbody recalled that Dr. German cautioned against a prescriptive approach and indicated that he had not included a cash cap in his interim recommendations, as he was not certain that BCLC had the right cash alternatives in place.[283]

Dr. German also gave evidence of this discussion with Mr. Lightbody.[284] He recalled advising Mr. Lightbody that he was not contemplating recommending a cash cap at the time of their conversation.[285] Dr. German did not recall advising Mr. Lightbody that BCLC should not pursue a cash cap because it had not yet observed the impact of

280 Ibid, pp 73–74.

281 Exhibit 490, Kroeker #1, para 204; Exhibit 505, Lightbody #1, para 300; Evidence of J. Lightbody, Transcript, January 29, 2021, p 81; Evidence of M. de Jong, Transcript, April 23, 2021, pp 57–58; Evidence of P. German, Transcript, April 13, 2021, p 58.

282 Exhibit 505, Lightbody #1, para 300; Exhibit 490, Kroeker #1, para 204.

283 Exhibit 505, Lightbody #1, para 300.

284 Evidence of P. German, Transcript, April 13, 2021, pp 57–58.

285 Ibid.

Dr. German's first interim recommendation.[286] Following this conversation, BCLC did not move forward with the proposed cash cap.[287]

In his final report, Dr. German recommended against the imposition of a hard cap on cash buy-ins.[288] In his evidence, Dr. German explained the rationale for this recommendation as follows:[289]

> [A]s part of the terms of reference, I was asked to come forward with interim recommendations if I saw the need for them. And it seemed to me that it was important to move fairly quickly in terms of attempting to stop the bleeding, so to speak. Stop the dirty money.
>
> Now, the dirty money had already been slowing down ever since 2015, but it was still coming in as far as we could see. And how do you stop that? And all of these issues with casinos, it's about source of funds, it's about knowing where the money comes from. The Attorney General had invited interim recommendations and I made two interim recommendations at that time. One was with respect to obtaining a source of funds declaration for amounts over $10,000 and there was another related to resourcing. That was the purpose for the interim recommendation. Both before that interim recommendation and after, there was always discussion about should there be a cap on the amount of money going into the casinos.
>
> And as a result of the inquiries that I had made internationally, in the United States, in the literature, it appeared that a cash cap was not the norm in casino systems in other places because why would you put a cap on legitimate money that is being used to gamble[?] If a person has $100,000 and they want to gamble with that $100,000, why not? The issue is the source of funds and the source of wealth.
>
> So, from my perspective, that made a lot of sense. Let's tighten up on where the money is coming from, where the money was generated as opposed to an arbitrary cap, whether it's – and to try to figure out what a cap would be ... almost impossible. I mean, that would just be quite arbitrary, 3,000, 10,000, 100,000. I don't know how you would come to that conclusion.
>
> So, my view was it wasn't a common practice in the industry, internationally, and it really was an issue of source of funds. And that flows through everything we were doing[,] back to source of funds.

286 Ibid, p 58.

287 Exhibit 505, Lightbody #1, para 303.

288 Evidence of P. German, Transcript, April 12, 2021, pp 61–63, 114 and Transcript, April 13, 2021, pp 17–18.

289 Evidence of P. German, Transcript, April 12, 2021, pp 61–63.

Mr. Lightbody's evidence was that he was surprised by this recommendation as he expected that BCLC would be able to implement the planned hard cap on cash buy-ins once Dr. German had completed his report.[290]

There is no hard cash cap in place in British Columbia's casinos today, though the requirement that flowed from Dr. German's interim recommendation that only sourced cash will be accepted in transactions of $10,000 or more remains in place.

January 26, 2018, Email from Mr. Eby

Subsequent to Mr. Lightbody's conversation with Dr. German about the prospect of a hard cap on cash buy-ins, Mr. Eby sent Mr. Lightbody an email reiterating Mr. Eby's desire that BCLC refrain from immediately implementing any new anti–money laundering initiatives.[291] Instead, Mr. Eby requested that BCLC present any policy reform proposals to Dr. German, along with any suggestions about implementation, reminding Mr. Lightbody that Dr. German was empowered to make immediate recommendations to Mr. Eby.[292] Mr. Eby offered the following rationale for these requests:[293]

> Absent coordination with Mr. German, my concern is that any proposal implemented by GPEB or BCLC independently from the ongoing review process could result in consequences as serious as interfering with active law enforcement investigations or could prevent necessary resources from being dedicated to higher priority initiatives identified by Mr. German.

In his evidence, Mr. Lightbody professed to having been perplexed and frustrated by this level of intervention from government.[294] He sought clarification from Mr. Fyfe who, according to Mr. Lightbody, advised that Mr. Eby was attempting to communicate to BCLC that he did not want new policies implemented before Dr. German's report was released.[295] Mr. Lightbody testified that, while he understood Mr. Eby's desire to wait for the results of Dr. German's review, Dr. German had specifically advised BCLC that he did not want to interfere with BCLC's work.[296] Mr. Lightbody considered cash reduction strategies to be an important part of BCLC's work.[297]

Based on the evidence before me, Mr. Eby's request that BCLC not introduce further reforms without consulting with Dr. German seems eminently sensible. Dr. German was in the process of reviewing the gaming industry's anti–money laundering regime with the intention of making recommendations to improve on existing practices. He had already

290 Exhibit 505, Lightbody #1, para 303.
291 Ibid, exhibit 160.
292 Ibid.
293 Ibid.
294 Ibid, paras 301–2.
295 Ibid.
296 Ibid, para 309.
297 Ibid.

delivered interim recommendations and BCLC had acted swiftly to implement his first interim recommendation. Mr. Eby did not tell BCLC that a cap on cash transactions could not be implemented; he simply suggested they consult with Dr. German, who could have immediately recommended such a measure, had he thought it advisable.

Further AML Reforms Proposed During German Review

BCLC subsequently proposed further changes to its anti–money laundering controls as Dr. German's review was ongoing.[298] These measures included capping the amount that could be paid out to a patron in cash in a 24-hour period at $25,000, removing limits on the amount that could be paid out by convenience cheque (i.e., funds returned to patrons that were not verified winnings), and eliminating the minimum deposit of $10,000 required to open a PGF account.[299] In his evidence, Mr. Kroeker explained that these measures, which included those aimed at reducing the volume of cash flowing *out* of casinos, were motivated in part by complaints from financial institutions that customers were bringing them large amounts of unverified cash and claiming the cash had been obtained from casinos.[300]

BCLC had previously sought to roll out some of these changes in 2016 but renewed those efforts in early 2018 as Dr. German's review was ongoing.[301] Based on the evidence before the Commission, it appears that the implementation of these measures was discussed in a meeting of BCLC anti–money laundering staff on January 3, 2018[302] and again in a meeting involving Mr. Lightbody, Mr. Desmarais, and Mr. Kroeker that took place toward the end of January 2018.[303] BCLC ultimately decided not to proceed with implementation of these measures at this time.[304]

August 2018 Attempt to Implement Further AML Measures

Unlike the proposed cash cap, the cap on cash payouts, removal of limits on convenience cheques, and elimination of minimum deposits for opening PGF accounts were not addressed in Dr. German's report.[305] BCLC took this as an indication that it was free to proceed with implementation of these measures.[306] On August 1, 2018, BCLC

298 Exhibit 148, Tottenham #1, exhibit 64.

299 Exhibit 490, Kroeker #1, para 146; Evidence of R. Kroeker, Transcript, January 26, 2021, p 199 and Transcript, January 25, 2021, p 148; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 151–52 and Transcript, November 5, 2020, pp 27–29; Exhibit 148, Tottenham #1, para 175 and exhibits 64–69.

300 Exhibit 490, Kroeker #1, para 145.

301 Ibid, para 148 and exhibit 70; Evidence of R. Kroeker, Transcript, January 25, 2021, p 148; Exhibit 148, Tottenham #1, paras 175–81.

302 Exhibit 490, Kroeker #1, para 146 and exhibit 69.

303 Exhibit 148, Tottenham #1, exhibit 64.

304 Ibid, para 148, exhibit 70; Evidence of R. Kroeker, Transcript, January 25, 2021, p 148; Exhibit 148, Tottenham #1, paras 177, 179, and exhibits 65, 69; Evidence of D. Tottenham, Transcript, November 5, 2020, p 28 and Transcript, November 10, 2020, pp 19–20, 151–52.

305 Exhibit 832, *Dirty Money 1*.

306 Evidence of D. Tottenham, Transcript, November 10, 2020, p 152; Exhibit 490, Kroeker #1, para 149.

issued a directive to service providers that these changes were to be implemented on August 7, 2018.[307]

The following day, Mr. Kroeker received two separate telephone calls from GPEB – one from Anna Fitzgerald, executive director of GPEB's compliance division, and the other from Mr. MacLeod, GPEB's general manager.[308] Both Ms. Fitzgerald and Mr. MacLeod requested that BCLC withdraw the directive in order to provide GPEB further time to consider the proposed measures.[309] BCLC withdrew the directive, delaying its implementation, as requested.[310]

On August 9, 2018, Mr. Lightbody received a letter from Mr. MacLeod requesting that BCLC continue to delay the proposed measures.[311] In this letter, Mr. MacLeod tied the request to ongoing work aimed at implementation of Dr. German's recommendations:[312]

> Thank you for suspending the implementation of … British Columbia Lottery Corporation's (BCLC) directive that updated Patron Gaming Fund (PGF) account and convenience cheque policies and procedures for Casino Service Providers on August 2, 2018 at my request.
>
> As you are aware, government is initiating policy-related work stemming from the German Report recommendations through an internal deputy minister committee. Some of the recommendations overlap the areas where BCLC's proposed changes are directed. In order to minimize the impact on service providers, these recommendations should be considered before the proposed changes are implemented. Government will decide how to move forward as quickly as possible with the best ways to implement them.
>
> A robust Source of Funds process minimizes any incremental risk associated with the implementation of the proposed changes to the PGF and convenience cheque policies. As you know, the Gaming Policy and Enforcement Branch (GPEB) is currently undertaking an audit of the Source of Funds Directive. Preliminary findings from our audit, which has been supported by work undertaken by BCLC, have led to an extension of the audit timeframe. It is important to first determine the effectiveness of the Source of Funds process and whether the additional training undertaken by BCLC has increased compliance.

307 Exhibit 490, Kroeker #1, para 149; Exhibit 148, Tottenham #1, para 178 and exhibit 66.

308 Exhibit 490, Kroeker #1, paras 150–51.

309 Ibid, paras 150–151; Evidence of B. Desmarais, Transcript, February 2, 2021, p 129.

310 Exhibit 490, Kroeker #1, para 150; Exhibit 148, Tottenham #1, para 179.

311 Exhibit 490, Kroeker #1, para 152 and exhibit 75; Exhibit 505, Lightbody #1, para 311.

312 Exhibit 490, Kroeker #1, exhibit 75; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 20–22, 152–53; Exhibit 148, Tottenham #1, para 180 and exhibit 68.

> I request you continue to hold implementation of this directive to Casino Service Providers until this audit work is complete and future direction has been established by the deputy minister committee.

Mr. MacLeod addressed the reasons for this request in his evidence.[313] He testified that he first became aware of these proposals approximately one week into his tenure as assistant deputy minister and general manager of GPEB.[314] Upon learning of the proposals, Mr. MacLeod was also advised at the time that Ms. Fitzgerald had reviewed the proposals and advised Mr. Kroeker generally that she did not have concerns about them but that they should not proceed until issues related to the implementation of Dr. German's first interim recommendation had been resolved.[315] However, GPEB's executive director of policy had not yet reviewed the proposals as Mr. MacLeod would have expected, and for this reason, Mr. MacLeod sought a delay in their implementation.[316] Subsequently, as indicated in his letter of August 9, Mr. MacLeod recommended that these measures be brought forward to the anti–money laundering deputy minister's committee established to consider Dr. German's recommendations.[317]

De-Risking of Money Services Businesses

An additional anti–money laundering initiative proposed by BCLC in early 2018, as Dr. German's review was ongoing and shortly after delivery of his interim recommendations, was the "de-risking" of money services businesses (MSBs).[318] In the course of interviews conducted as part of the cash conditions program, BCLC had identified several MSBs that it considered to be suspicious.[319] This concern was elevated in 2017 when BCLC received information that the RCMP was engaged in a money laundering investigation that may have been connected to MSBs.[320]

As BCLC's concerns about MSBs grew,[321] Mr. Kroeker tasked BCLC's anti–money laundering unit with reviewing the risk posed by these businesses and developing policies and controls focused on mitigating that risk.[322] This review began in or around August 2017.[323] A few months later, in October 2017, BCLC was advised by FINTRAC that it needed to reassess the money laundering risk presented by MSBs,[324] underscoring the necessity of the work already underway.

313 Evidence of S. MacLeod, Transcript, April 19, 2021, pp 27–28, 124–27, 136.

314 Ibid.

315 Ibid, pp 27–28.

316 Ibid, pp 27–28, 124–27, 136.

317 Ibid, pp 28–29, 127.

318 Evidence of D. Tottenham, Transcript, November 10, 2020, p 208; Exhibit 490, Kroeker #1, paras 210–11; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 90–91.

319 Evidence of D. Tottenham, Transcript, November 5, 2020, pp 26–27; Exhibit 148, Tottenham #1, para 156; Exhibit 490, Kroeker #1, para 209.

320 Exhibit 490, Kroeker #1, paras 213–14.

321 Ibid, para 214.

322 Ibid, para 215.

323 Ibid.

324 Ibid, para 216 and exhibit 121.

Initially, BCLC contemplated the creation of a list of "approved" MSBs. Funds obtained from these businesses would be accepted by casinos as sourced funds.[325] As BCLC attempted to create this list, however, it eventually concluded that *all* MSBs were outside of its risk tolerance.[326] Mr. Kroeker described this evolution in thought in his affidavit:[327]

> Initially, BCLC considered creating a list of approved MSBs that BCLC believed had sufficient money laundering controls in place. In the fall of 2017, however, it became clear that BCLC could not access sufficient information to properly vet and risk-assess MSBs on an individual basis. MSBs were not willing to reveal their compliance plans to BCLC. At that point, BCLC considered vetting [two MSBs]. Our inquiries revealed reported AML program compliance issues with [one of these MSBs] that precluded BCLC from being able to confidently accept transactions from that business, and because [the second of these MSBs] was understood to rely on [the first MSB] for international transactions that also precluded BCLC from accepting transactions from that service. As a result, BCLC concluded that all MSBs were beyond its risk tolerance and took the decision to direct service providers to not accept transactions involving funds from MSBs.

Mr. Lightbody kept government apprised of BCLC's efforts in this regard throughout this process.[328] He recalled first raising this issue in a phone call with Mr. Scott and Mr. Fyfe in the fall of 2017.[329] On or about January 17, 2018, Mr. Lightbody advised Mr. Scott and Mr. Fyfe that BCLC had decided to stop accepting funds from all MSBs.[330] Mr. Lightbody did not recall any reaction from Mr. Fyfe or Mr. Scott to learning that BCLC intended to "de-risk" all MSBs and does not recall being asked to consult with Dr. German about this decision.[331]

Mr. Lightbody did recall that he later learned that Mr. Eby had expressed some concern about this measure being implemented while Dr. German's review was ongoing.[332] Mr. Kroeker had more specific recollection about Mr. Eby's reaction, but acknowledged he learned of this reaction third-hand from Mr. Lightbody, who in turn was told of Mr. Eby's reaction from Mr. Fyfe.[333] Mr. Kroeker's evidence, which is supported by his contemporaneous notes, was that he understood that Mr. Eby had expressed frustration that these changes had been implemented while Dr. German's review was ongoing.[334] Mr. Fyfe recalled advising Mr. Eby of BCLC's plan to de-risk

325 Ibid, para 215; Exhibit 505, Lightbody #1, para 315 and exhibit 166.
326 Exhibit 490, Kroeker #1, para 217; Exhibit 505, Lightbody #1, para 315.
327 Exhibit 490, Kroeker #1, para 217.
328 Exhibit 505, Lightbody #1, para 317.
329 Ibid.
330 Ibid.
331 Ibid.
332 Evidence of J. Lightbody, Transcript, January 28, 2021, p 92.
333 Evidence of R. Duff, Transcript, January 25, 2021, p 55.
334 Exhibit 490, Kroeker #1, para 218.

MSBs.[335] He did not recall Mr. Eby having any particular reaction to this proposal, but understood that this proposal would have been part of the motivation behind Mr. Eby's January 26, 2018, email to BCLC.[336]

Whatever Mr. Eby's reaction, BCLC proceeded to implement a policy prohibiting casinos from accepting as sourced funds any form of payment from MSBs effective March 15, 2018.[337] As outlined in the directive imposing this policy, its effect was that, subsequent to its implementation, only receipts from accredited Canadian banks or credit unions were accepted as proof of the source of funds used in transactions in the province's casinos.[338]

Conclusion of Dr. German's Review

Dr. German completed his review in March 2018 and transmitted his findings and recommendations to Mr. Eby by way of a report dated March 31, 2018.[339] Dr. German's report contained extensive findings and 48 recommendations.[340] As indicated above, it is not the function of this Commission to conduct a comprehensive review of Dr. German's work or to pass judgment on each of Dr. German's recommendations, and this Report does not purport to do so. The discussion of Dr. German's process, conclusions, and recommendations contained in this Report will be limited to what is necessary to fulfill the Commission's own Terms of Reference.

On June 27, 2018, approximately three months after receipt of Dr. German's report, Mr. Eby sent a letter to Mr. Scott and Mr. Fyfe providing direction regarding the implementation of the recommendations made by Dr. German.[341] In that letter, Mr. Eby identified six recommendations that he identified should be implemented immediately and directed the creation of a committee to oversee the remaining 42 recommendations:[342]

> I recognize that the remaining recommendations vary in their complexity and requirement for analysis. Some recommendations require a significant undertaking across government. To ensure effective and timely implementation of the remaining recommendations, I direct that a committee be established to oversee the cross-government implementation.
>
> This committee should be comprised of senior officials from the ministries of Attorney General, Public Safety and Solicitor General and

335 Evidence of R. Fyfe, Transcript, April 29, 2021, pp 40–41.

336 Ibid.

337 Exhibit 505, Lightbody #1, para 318; Exhibit 148, Tottenham #1, para 159 and exhibit 54; Exhibit 490, Kroeker #1, para 221.

338 Exhibit 148, Tottenham #1, exhibit 54.

339 Exhibit 832, *Dirty Money 1*.

340 Ibid.

341 Evidence of D. Eby, Transcript, April 26, 2021, p 239; Exhibit 918, Letter from David Eby to Richard Fyfe and Douglas Scott directing recommendations of Dr. German be implemented (June 27, 2018).

342 Evidence of D. Eby, Transcript, April 26, 2021, pp 239–40; Exhibit 918, Letter from David Eby to Richard Fyfe and Douglas Scott directing recommendations of Dr. German be implemented (June 27, 2018).

> Finance, including officials from the Gaming Policy and Enforcement Branch and the British Columbia Lottery Corporation. This committee should engage with stakeholders and interested parties as appropriate, including police and federal agencies. Terms of reference for the committee should be prepared for my approval.
>
> I expect that the committee will develop performance measures for successful implementation of these recommendations and, as substantive progress is made, the chair of the committee should provide my office with regular status reports.

Following Mr. Eby's direction, an Anti–Money Laundering Deputy Minister's Committee and an Anti–Money Laundering Secretariat were established within government to oversee implementation of Dr. German's recommendations.[343] Following receipt of Dr. German's second *Dirty Money* report, the mandate of these groups expanded,[344] and they became responsible for oversight of government's anti–money laundering response across the province's economy.[345]

As of February 22, 2021, the government had addressed 38 of the 48 recommendations made by Dr. German in his first report.[346] BCLC has implemented all of the recommendations made by Dr. German that it has the authority to implement independently.[347] Government having "addressed" a recommendation by Dr. German does not mean that the recommendation was implemented precisely as made by Dr. German. In some instances, government has decided not to implement Dr. German's recommendations as made in his report or at all.[348] In these instances, government typically considered whether alternatives to the recommendation might have achieved the "spirit" of the recommendation, if not the letter, and, in at least some such cases, has consulted with Dr. German about possible alternatives identified.[349]

Review of GPEB Enforcement Function

In response to Dr. German's report, Mr. MacLeod initiated a review of GPEB's "enforcement function."[350] Mr. MacLeod's evidence was that this review was specifically initiated in response to comments in Dr. German's report indicating that

343 Evidence of D. Eby, Transcript, April 26, 2021, p 240; Exhibit 505, Lightbody #1, para 337; Exhibit 557, Scott #1, para 80; Evidence of D. Scott, Transcript, February 8, 2021, p 82.

344 Exhibit 505, Lightbody #1, para 339.

345 Exhibit 557, Scott #1, para 80; Evidence of D. Scott, Transcript, February 8, 2021, p 82.

346 Evidence of M. de Jong, Transcript, April 23, 2021, pp 136–37.

347 Exhibit 505, Lightbody #1 para 257.

348 Evidence of D. Eby, Transcript, April 26, 2021, pp 75–77; Exhibit 920, AML Secretariat Briefing Note for Decision of David Eby, re Analysis of Dr. Peter German's Recommendations Related to Casino Reporting Obligations to FINTRAC (January 24, 2020); Evidence of R. Fyfe, Transcript, April 29, 2021, pp 30–31.

349 Evidence of R. Fyfe, Transcript, April 29, 2021, pp 31–32.

350 Exhibit 504, Skrine #1, para 11; Evidence of C. Skrine, Transcript, January 27, 2021, p 6; Evidence of S. MacLeod, Transcript, April 19, 2021, p 39.

GPEB lacked a proactive response to money laundering and to Dr. German's second interim recommendation that GPEB increase its regulatory presence in the province's casinos.[351] Mr. Skrine, then the regional director of GPEB's Kelowna office,[352] was tasked with conducting this review.[353]

Mr. Skrine conducted his review over the course of approximately two months.[354] During the review, Mr. Skrine met with stakeholders from across the gaming industry, including GPEB investigators, executives from BCLC, compliance leads from the five major Lower Mainland casinos, and leadership from law enforcement in the jurisdictions in which those five casinos operate.[355] Mr. Skrine's evidence was that those consulted unanimously supported GPEB "taking a more active role in the investigation of possible criminal events occurring within casinos and a more collaborative approach to intelligence sharing."[356]

At the end of November 2018, Mr. Skrine submitted to Mr. MacLeod a proposal for an enhanced gaming enforcement response for GPEB.[357] This proposal recommended that GPEB take the following three actions:[358]

1. Establish a more proactive, real-time role in responding to suspicious transactions;

2. Establish a more proactive, real-time role in the investigation of crime in connection to the Gaming Policy and Enforcement Branch's regulatory responsibilities that occur on casino property; and

3. Work with the Combined Forces Special Enforcement Unit – British Columbia and the Joint Illegal Gaming Investigation Team to move to a collaborative intelligence model with police.

These three recommendations were approved by Mr. MacLeod.[359] In his evidence, Mr. Skrine indicated that at the time of his testimony on January 27, 2021, GPEB considered the third of these recommendations to be fully implemented,[360] while implementation of the first two was ongoing.[361]

351 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 39–40.

352 Exhibit 504, Skrine #1, para 9.

353 Ibid, para 11; Evidence of C. Skrine, Transcript, January 27, 2021, p 6; Evidence of S. MacLeod, Transcript, April 19, 2021, p 39.

354 Exhibit 504, Skrine #1, para 12.

355 Ibid, para 12.

356 Ibid, para 13 and exhibit A.

357 Ibid, para 14 and exhibit B.

358 Ibid.

359 Ibid, para 16.

360 Evidence of C. Skrine, Transcript, January 27, 2021, p 15.

361 Evidence of C. Skrine, Transcript, January 27, 2021, pp 12 and 14.

Establishment of GPEB's Enforcement Division

In addition to approving the recommendations arising from Mr. Skrine's review, Mr. MacLeod also sought to enhance GPEB's enforcement response by establishing a dedicated enforcement division within GPEB.[362] Practically, this involved removing GPEB's intelligence and investigative functions from its compliance division – where they had been placed following the 2014 review conducted during Mr. Mazure's tenure – and placing them within a new, independent division[363] in order to facilitate a shift "from reactive investigations to proactive investigations and responses."[364]

In his affidavit, Mr. Skrine described some of the initial priorities identified as the enforcement division was established:[365]

> In establishing the Enforcement Division, the initial focus was on employing a risk based approach to our casino deployment, identifying training needs, redefining GPEB's enforcement purpose and objectives within our regulatory mandate, ensuring consistency in service delivery and file management, improving our intelligence capabilities and establishing strong stakeholder relationships with gaming industry partners and the police to ensure an effective multipronged approach to incidents that threaten the integrity of gaming.

Evident from this passage – and from both the fact and results of Mr. Skrine's review – is the clear focus at this time on the role of GPEB's investigators. As discussed previously in this Report, prior to this time, the role of GPEB's investigators – at least with respect to suspicious transactions – was largely reactive and limited to preparation of reports based on information provided by BCLC and service providers. The discussion that follows reviews the evidence before the Commission of how the role and deployment of investigators has evolved under the new enforcement division.

Evolution of the Role of GPEB Investigators Under the Enforcement Division

The creation of GPEB's enforcement division appears to have been accompanied by a near-complete reinvention of GPEB's investigations program. The associated changes included an overhaul of training for investigators,[366] reforms made to its file management system,[367] and the development of new standard operating procedures and communication protocols,[368] among other changes. This Report will not detail all

362 Exhibit 504, Skrine #1, para 18; Evidence of C. Skrine, Transcript, January 27, 2021, p 6.

363 Ibid.

364 Exhibit 504, Skrine #1, para 19.

365 Ibid, para 21.

366 Ibid, paras 24 and 27, and exhibits F, G and H; Evidence of C. Skrine, Transcript, January 27, 2021, pp 31–33 and 49–50.

367 Exhibit 504, Skrine #1, para 56, exhibit O; Evidence of C. Skrine, Transcript, January 27, 2021, pp 45–46.

368 Exhibit 504, Skrine #1, para 47.

of the changes made to GPEB's investigative and enforcement functions at this time and will instead focus on changes made in three related areas: (a) how investigators are deployed in casinos, (b) the role of investigators deployed in casinos, and (c) the Branch's intelligence function.

Deployment of GPEB Investigators in Casinos

As discussed above, the second of Dr. German's interim recommendations made on November 29, 2017, was that "a GPEB investigator be on shift and available to the high volume casino operators in the Lower Mainland, on a 24/7 basis."[369] Like BCLC with respect to the first of Dr. German's interim recommendations, GPEB quickly took action to implement this recommendation by hiring six new investigators and by adjusting the schedules of existing staff to improve coverage during peak hours.[370]

This recommendation was reiterated – but also qualified as an interim measure – in Dr. German's final report recommendation 32:[371]

> That the Regulator provide a 24/7 presence in the major Lower Mainland casinos, until a designated policing unit is in place.

In response to these recommendations, GPEB undertook an analysis of data, including the timing of unusual financial transaction reporting, large cash transaction reporting, PGF account openings, and reporting pursuant to section 86 of the *Gaming Control Act*, SBC 2002, c 14, to identify peak periods requiring investigator deployment in Lower Mainland casinos.[372]

This analysis identified a daily 14-hour "peak period" in casinos.[373] GPEB has added additional resources so that it is able to provide a presence in the five major Lower Mainland casinos during this 14-hour peak period, seven days a week, but has not established a 24-hour presence in the sense of having an investigator physically present in each of those casinos at every hour of every day.[374] Mr. MacLeod's evidence was that GPEB is satisfied with the current level of deployment.[375] While Mr. MacLeod acknowledged that there is a need to constantly reassess the deployment of GPEB investigators, he did not, as of the date of his evidence on April 19, 2021, see a need for in-person presence by GPEB investigators at times of low activity in casinos.[376]

369 Exhibit 832, *Dirty Money 1*, p 244.

370 Evidence of C. Skrine, Transcript, January 27, 2021, p 68; Exhibit 541, Affidavit #1 of John Mazure, sworn on February 4, 2021 [Mazure #1], para 211.

371 Exhibit 832, German Report, p 19.

372 Exhibit 504, Skrine #1, paras 22–23; Evidence of C. Skrine, Transcript, January 27, 2021, pp 68–71.

373 Evidence of C. Skrine, Transcript, January 27, 2021, pp 70–71; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 43–44.

374 Evidence of S. MacLeod, Transcript, April 19, 2021, pp 43–44.

375 Ibid, pp 44–45.

376 Ibid.

Role of Investigators Present in Casinos

This expanded deployment of GPEB investigators in the province's casinos has also been accompanied by changes in the role played by investigators when present in casinos, including with respect to suspicious transactions.[377] In particular, contrary to the past practices of GPEB and the understanding held by some of those previously responsible for leading the GPEB's investigative functions, GPEB has now determined that, in some circumstances, it is appropriate for its investigators to engage with and interview casino patrons with respect to suspicious transactions.[378] I commend GPEB for this shift in position which was, in my view, long overdue.

Mr. Skrine gave evidence that these types of interviews will assist in determining whether a patron's source of funds and/or wealth is legitimate and, if not, identifying the type of illicit activity through which the funds and/or wealth may have been generated.[379] Mr. MacLeod's evidence was that, while there is some risk to investigator safety in interviewing patrons, it is not a significant one, given that casinos are secure environments.[380]

In addition to interviewing patrons, additional actions identified by Mr. Skrine and/or Mr. MacLeod that could be taken by GPEB investigators in response to suspicious transactions included alerting and providing information to law enforcement, including JIGIT,[381] directing service provider staff to refuse transactions,[382] and seizing cash while waiting for police attendance.[383]

This evolution in the role of GPEB investigators required administrative changes and the support of Mr. MacLeod, but did not require any legislative changes or changes to the powers or authority of GPEB investigators.[384] While GPEB had enhanced its deployment of investigators in casinos prior to the onset of the COVID-19 pandemic, these changes to the role of investigators had largely not been implemented by this time.[385] Accordingly, no evidence was available to the Commission as to the impact of this enhanced role for investigators.

GPEB Intelligence Function

A third area of significant change following Mr. Skrine's review was in GPEB's intelligence function. In the course of his review, Mr. Skrine observed that there was

377 Evidence of C. Skrine, Transcript, January 27, 2021, pp 16–17, 23–24, 27–28, 55–56, 125–28.

378 Ibid, pp 16, 55, 127–128; Evidence of S. MacLeod, Transcript, April 19, 2021, p 45.

379 Evidence of C. Skrine, Transcript, January 27, 2021, pp 17–18, 82.

380 Evidence of S. MacLeod, Transcript, April 19, 2021, pp 47–48; Evidence of C. Skrine, Transcript, January 27, 2021, pp 18–19, 81–82.

381 Evidence of C. Skrine, Transcript, January 27, 2021, pp 17–18, 82; Evidence of S. MacLeod, Transcript, April 19, 2021, p 47.

382 Evidence of C. Skrine, Transcript, January 27, 2021, pp 23–24, 56, 125–26; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 46–47.

383 Evidence of C. Skrine, Transcript, January 27, 2021, pp 26–27.

384 Evidence of S. MacLeod, Transcript, April 19, 2021, p 92; Evidence of C. Skrine, Transcript, January 27, 2021, pp 28–29.

385 Evidence of C. Skrine, Transcript, January 27, 2021, pp 16–17.

limited coordination between law enforcement and GPEB and, in particular, that information tended to flow in only one direction – from GPEB to law enforcement.[386] Mr. Skrine was concerned that this lack of collaboration could lead to a failure to detect suspicious transactions and believed that a more intelligence-led enforcement model with increased access to information from law enforcement would enable GPEB to better respond to threats.[387]

In February 2019, Mr. MacLeod approved the transfer of GPEB's intelligence resources to GPEB's existing secondment to JIGIT in order to establish a collaborative intelligence model in which GPEB's intelligence staff would work alongside police intelligence.[388] The Ministry of Public Safety and Solicitor General has reviewed the proposed gaming intelligence model and approved its formation[389] and the model was formalized in July 2019 in a unit now known as the Gaming Intelligence Investigation Unit (GIIU).[390] The composition and activities of GIIU were described in Mr. Skrine's evidence as follows:[391]

> The GIIU is currently a twelve-person team comprised of RCMP and GPEB personnel and is run through JIGIT. Within [GIIU] there are three intelligence analysts (one RCMP and two GPEB), six investigator positions (two RCMP and four GPEB) and an Organized Crime Agency contracted employee who analyzes FINTRAC disclosures in support of Project Athena. Overall, the model has helped JIGIT and the Enforcement Division investigators prioritize investigations that relate to high risk patrons and unusual financial transactions reported to GPEB.
>
> GPEB personnel bring forward gaming intelligence from within its role as regulator and, when a law enforcement purpose exists, share this intelligence with police, combining the information with police intelligence to produce a collaborative intelligence product.
>
> ...
>
> This cooperative approach has resulted in several actionable intelligence reports. These reports may include profiles of individuals or activities and concerns flowing from their activities that deem them high-risk patrons.
>
> The focus of the GIIU is primarily on UFTs [unusual financial transactions] submitted by service providers. When warranted, these UFTs are used to build actionable intelligence reports. These reports are

386 Exhibit 504, Skrine #1, para 57; Evidence of C. Skrine, Transcript, January 27, 2021, pp 15, 74–75.
387 Exhibit 504, Skrine #1, paras 57–58; Evidence of C. Skrine, Transcript, January 27, 2021, pp 15, 74–75.
388 Exhibit 504, Skrine #1, para 59; Evidence of C. Skrine, Transcript, January 27, 2021, pp 14–15 and 37.
389 Exhibit 504, Skrine #1, para 59; Evidence of C. Skrine, Transcript, January 27, 2021, pp 14–15 and 37.
390 Exhibit 504, Skrine #1, para 60.
391 Ibid, paras 60–64.

sent to JIGIT or to the Lower Mainland investigators at the GPEB Kingsway office for follow up.

As this unit remains in its infancy, I am not in a position to assess its impact or effectiveness, but it appears to show promise.

Current State of AML Risks and Measures in BC's Gaming Industry

The discussion above about enhancements to GPEB's enforcement function, as well as the discussions that preceded it regarding actions taken in response to Dr. German's recommendations, provide some insight into the current state of anti–money laundering measures in British Columbia's gaming industry. The discussion that follows is intended to add to this picture by offering a more general overview of what was happening in the industry at the time of the Commission's hearings (or perhaps more accurately, what would have been happening if the province's casinos had not been shuttered due to the COVID-19 pandemic).

Current Money Laundering Risks in BC's Gaming Industry

Witnesses from both BCLC and GPEB gave evidence that large cash transactions no longer pose a significant money laundering risk within the province's gaming industry.[392] This does not mean, however, that the risk of money laundering within the industry generally had been eliminated. Two areas of continued money laundering risk were identified by multiple witnesses: transactions under $10,000 and bank drafts.

Cash Transactions Under $10,000

A number of witnesses identified cash transactions under $10,000 as an ongoing source of money laundering risk for the gaming industry.[393] Both BCLC and GPEB appear to have identified this as an area of ongoing risk.[394] With the introduction of Dr. German's first interim recommendation, these transactions have increased in frequency.[395] Some of these transactions continue to bear features associated with the

392 Exhibit 78, Beeksma #1, para 89; Exhibit 148, Tottenham #1, para 165; Evidence of C. Skrine, Transcript, January 27, 2021, pp 38–39; Evidence of S. MacLeod, Transcript, April 19, 2021, p 55.

393 Evidence of S. Lee, Transcript, October 27, 2020, pp 43–44, 50–52; Evidence of K. Ackles, Transcript, November 2, 2020, p 60; Evidence of D. Tottenham, Transcript, November 5, 2020, p 39; Exhibit 490, Kroeker #1, para 234; Exhibit 505, Lightbody #1, para 286; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 84–85; Evidence of C. Skrine, Transcript, January 27, 2021, p 40; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 54–55.

394 Evidence of S. Lee, Transcript, October 27, 2020, pp 43–44, 50–52; Evidence of K. Ackles, Transcript, November 2, 2020, p 60; Evidence of D. Tottenham, Transcript, November 5, 2020, p 39; Exhibit 490, Kroeker #1, para 234; Exhibit 505, Lightbody #1, para 286; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 84–85; Evidence of C. Skrine, Transcript, January 27, 2021, p 40; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 54–55.

395 Exhibit 144, Affidavit #3 of Ken Ackles, made on October 28, 2020 [Ackles #3], paras 59–60; Evidence of K. Ackles, Transcript, November 2, 2020, p 61; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 54–55.

proceeds of crime (such as suspicious packaging)[396] and in some instances continue to be reported to FINTRAC as suspicious transactions.[397] Because they are below the $10,000 threshold, however, there is no requirement to provide proof of the source of cash used in these transactions.[398] In some instances, it appears that patrons are deliberately avoiding buy-ins of $10,000 or more by removing a few bills from buy-ins that would otherwise have required proof of the source of funds before completing the transaction.[399] In these cases, it is often unclear if patrons are attempting to avoid the FINTRAC reporting requirement for cash transactions over $10,000 or if they are trying to avoid BCLC's requirement that they provide proof of the source of funds for such transactions. This lack of clarity has led some of the witnesses appearing before the Commission to suggest that the threshold for requiring proof of the source of funds should be set at a value different from the threshold for large cash transaction reporting.[400] Given these concerns and the desirability of further reducing the quantities of unsourced cash accepted by the province's casinos, I recommend that the threshold for requiring proof of the source of funds be lowered to $3,000.

Recommendation 4: I recommend that the threshold for requiring proof of the source of funds for casino transactions conducted in cash and other bearer monetary instruments be lowered to $3,000.

Bank Drafts

Bank drafts were also identified as an area of ongoing vulnerability by multiple witnesses.[401] According to these witnesses, this risk arises from the possibility that the patron presenting a bank draft may not have obtained the draft directly from a financial institution and that the draft may not contain information sufficient to permit casino staff to determine that it was not drawn on the patron's own bank account.[402] This risk has been recognized by both BCLC and GPEB and both are taking action to mitigate this risk, including imposing source-of-funds requirements for bank drafts and working

396 Exhibit 144, Ackles #3, paras 59–60; Evidence of K. Ackles, Transcript, November 2, 2020, p 61; Exhibit 90, Incident Report from River Rock on Unusual Financial Transaction (IN20200006443) (January 29, 2020); Exhibit 91, Incident Report from River Rock on Unusual Financial Transaction (IN20200012826); Exhibit 87, S. Lee #1, exhibits N, O, P.

397 Exhibit 505, Lightbody #1, para 286; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 84–85.

398 Evidence of S. MacLeod, Transcript, April 19, 2021, p 55.

399 Exhibit 87, S. Lee #1, exhibit P; Exhibit 574, Overview Report: Casino Surveillance Footage, appendices 10, 16, 18, 40, 50.

400 Exhibit 78, Beeksma #1, para 92; Evidence of S. Beeksma, Transcript, October 26, 2020, p 86; Exhibit 87, S. Lee #1, paras 67–69; Evidence of S. Lee, Transcript, October 27, 2020, p 42; Exhibit 530, Ennis #1, para 104.

401 Exhibit 78, Beeksma #1, para 90 and exhibit CC; Evidence of S. Beeksma, Transcript, October 26, 2020, p 90; Evidence of K. Ackles, Transcript, November 2, 2020, pp 56–57; Evidence of D. Tottenham, Transcript, November 5, 2020, p 39; Evidence of C. Skrine, Transcript, January 27, 2021, pp 41–42; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 55–56.

402 Evidence of S. MacLeod, Transcript, April 19, 2021, p 56; Evidence of C. Skrine, Transcript, January 27, 2021, pp 41–42; Evidence of K. Ackles, Transcript, November 2, 2020, pp 56–57; Exhibit 78, Beeksma #1, para 90; Evidence of S. Beeksma, Transcript, October 26, 2020, p 90.

with the Counter Illicit Finance Alliance of British Columbia to encourage financial institutions to enhance the information included on bank drafts.[403]

GPEB Additional Anti–Money Laundering Measures

Changes to Power and Authority of GPEB

Alongside the reforms described above, several additional measures intended to enhance GPEB's anti–money laundering response have been introduced in recent years. These measures include two changes to GPEB's authority. The first of these is that, since 2019, GPEB has had the authority to bar casino patrons from the province's casinos,[404] a measure previously within the exclusive jurisdiction of BCLC. Perhaps more significantly, GPEB has recently been granted greater authority over BCLC. In 2018, the *Gaming Control Act* was amended to remove the requirement for ministerial approval of directives issued to BCLC by the general manager of GPEB.[405] Mr. MacLeod testified that, as of the date of his evidence, there had not been a need for him to exercise this authority, as GPEB and BCLC have managed to resolve by agreement any issues that may have otherwise led to a directive.[406]

AML Vulnerabilities Working Group

A further initiative originating within GPEB is the Anti–Money Laundering Vulnerabilities Working Group.[407] This group, established in February 2019, brings together representatives from several different GPEB divisions to identify money laundering vulnerabilities within the gaming industry and, where appropriate, make recommendations to GPEB's leadership to address or mitigate those vulnerabilities.[408]

BCLC Anti–Money Laundering Program

BCLC's anti–money laundering program is overseen by BCLC's anti–money laundering unit.[409] The mandate of the anti–money laundering unit includes:[410]

1. Addressing changes to policy driven by legislative or regulatory amendments;

403 Exhibit 78, Beeksma #1, para 90; Evidence of S. Beeksma, Transcript, October 26, 2020, p 90; Evidence of K. Ackles, Transcript, November 2, 2020, pp 56–57; Evidence of D. Tottenham, Transcript, November 5, 2020, p 39; Evidence of C. Skrine, Transcript, January 27, 2021, pp 41–42; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 55–56.

404 Evidence of K. Ackles, Transcript, November 2, 2020, pp 113, 118.

405 Exhibit 541, Mazure #1, para 224; Evidence of S. MacLeod, Transcript, April 19, 2021, p 20.

406 Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 21, 91.

407 Exhibit 144, Ackles #3, para 50.

408 Ibid, para 52 and exhibit N; Evidence of K. Ackles, Transcript, November 2, 2020, pp 58–59; Evidence of C. Skrine, Transcript, January 27, 2021, pp 42–43.

409 Exhibit 484, deBruyckere #2, para 6.

410 Ibid, para 7.

2. Identifying technology solutions to anti–money laundering and other regulatory reporting obligations in order to enhance efficiency;

3. Supervising and monitoring all FINTRAC reports/records submitted to FINTRAC for timeliness and accuracy and disseminating applicable reports to the Gaming Policy and Enforcement Branch and to law enforcement as required;

4. Enhancing the Lottery Corporation's "know your customer" capabilities through the establishment of high-risk player profiles by accessing open source and internal databases, with particular emphasis on those players undertaking large cash transactions;

5. Conducting anti–money laundering and other appropriate training to Lottery Corporation staff and service providers;

6. Continuously monitoring adherence to anti–money laundering processes and policy by Lottery Corporation staff and service providers;

7. Monitoring high-risk player behaviour for indicators of criminal conduct;

8. Identifying trends which may be indicative of money laundering, fraud, or other criminal conduct;

9. Establishing British Columbia Lottery Corporation–law enforcement working groups with the police of jurisdiction in the municipalities where Lottery Corporation casinos and community gaming centres are situated;

10. Conducting due diligence examinations, where requested, with respect to prospective contractors to the Lottery Corporation; and

11. Monitoring the use of cash alternative programs for compliance with FINTRAC / Gaming Policy and Enforcement Branch requirements while ensuring proper safeguards are in place to limit the Lottery Corporation's exposure to reputational, financial, and regulatory risks.

In his evidence, Kevin deBruyckere, BCLC's director of anti–money laundering and investigations, identified and described the following elements of BCLC's current anti–money laundering program, some of which are described in detail elsewhere in this Report:[411]

1. Source of Funds Interview Process;

2. Source of Funds Process;

3. Source of Wealth Process;

411 Ibid, para 9.

4. Cash Conditions / Restrictions;
5. Receipting Requirement at $10,000;
6. High Risk Patron Enhanced Due Diligence Process;
7. Housewife / Student Occupation and Open Source Intelligence Review;
8. Reasonable Measures Process;
9. Public Safety Risk Patron Process;
10. Information Sharing Agreement with the Royal Canadian Mounted Police;
11. Refused Cash Buy-In Requirements;
12. Convenience Cheque Review Process;
13. Bank Draft Monitoring;
14. Alert and Watch Processes;
15. Patron Gaming Fund Account Monitoring; and
16. Business Relationship Determination and Monitoring.

Relationship Between GPEB and BCLC

The Commission heard evidence from several witnesses regarding the current state of the relationship between GPEB and BCLC.[412] Despite the history of challenges in the relationship between elements of the two organizations, witnesses from both GPEB and BCLC spoke to an excellent relationship in recent years.[413] Mr. deBruyckere, for example, described the relationship in the following terms:[414]

> On my arrival at BCLC, I was impressed with BCLC's team and the AML controls that were in place. Since I have been at BCLC, there was and continues to be a strong relationship with GPEB and law enforcement. With respect to GPEB in particular, I attribute the strong relationship not just to the individuals currently in their respective roles at each organization, but to an acceptance of each organization's responsibilities under the applicable legislation.

412 Exhibit 485, Affidavit #3 of Kevin deBruyckere, sworn on January 19, 2021 [deBruyckere #3], para 19; Evidence of K. deBruyckere, Transcript, January 21, 2021, p 98; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 157–58; Evidence of C. Skrine, Transcript, January 27, 2021, pp 36, 48, 58–59; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 91, 113–15.

413 Exhibit 485, deBruyckere #3, para 19; Evidence of K. deBruyckere, Transcript, January 21, 2021, p 98; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 157–58; Evidence of C. Skrine, Transcript, January 27, 2021, pp 36, 48, 58–59; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 91, 113–15.

414 Exhibit 485, deBruyckere #3, para 19.

Mr. MacLeod offered a similar perspective, focusing on the relationship between those at the executive level:[415]

> I think it's an excellent relationship. We've established that through regular meetings. I meet regularly with – at the time it was Jim Lightbody to discuss issues as they pop up. We had regular meetings. That's carried through to the [successive] CEOs to the current one. I also have weekly calls with a couple of the other individuals within BCLC that hold executive portfolios. We meet jointly. The execs from GPEB and BCLC meet jointly on a quarterly basis to, again, review issues and initiatives that are ongoing within both organizations. So, I think it's very collaborative. It's really an excellent relationship that we have with BCLC.

Whatever difficulties may have existed between BCLC and GPEB previously, it appears that, based on the evidence before the Commission, those difficulties are a thing of the past, and there is a strong and effective relationship between the two organizations today. It is important that both work to maintain a collaborative and effective working relationship. That said, I caution GPEB that it should not, in the name of relationship maintenance, shy away from exercising its authority when a money laundering vulnerability cannot be adequately addressed otherwise.

Gaming Integrity Group

The results of this improved relationship are evident in the creation of the Gaming Integrity Group. The Gaming Integrity Group is a joint initiative of BCLC, GPEB, and JIGIT involving regular meetings in which all participants identify and discuss incidents and individuals that pose a threat to the integrity of gaming.[416] Mr. Ackles described the purpose and activities of the Gaming Integrity Group as follows:[417]

> In early 2018, the Gaming Integrity Group ("GIG"), formerly the Gaming Intelligence Group, was established as a collaborative network to discuss issues as they arose in the anti–money laundering environment. GIG is made up of representatives of the BCLC Anti–Money Laundering Group ("BCLC AML-Group"), GPEB Enforcement Division, and JIGIT, as represented by GPEB-seconded members and JIGIT police members. The GIG is a group comprised of front-line investigators which discuss individual incidents relating to money laundering in British Columbia. GIG's terms of reference define the group, identify the membership, and set the broad level goals and outcomes...
>
> Since 2018, GIG has had weekly conference calls and beginning in March 2019, GIG has had monthly in-person meetings. At the monthly

415 Evidence of S. MacLeod, Transcript, April 19, 2021, pp 19–20.

416 Exhibit 504, Skrine #1, para 66; Evidence of C. Skrine, Transcript, January 27, 2021, pp 76–77; Exhibit 144, Affidavit #3 of Ken Ackles, made on October 28, 2020, paras 46–48.

417 Exhibit 144, Ackles #3, paras 46–49.

> in-person meetings, an attendee will take the meeting minutes, which are later distributed to the meeting attendees, and reviewed and adopted at the next in-person meeting … With the onset of the COVID-19 pandemic, we have not continued with our monthly GIG meetings.
>
> However, throughout the COVID-19 pandemic, GIG has continued with its weekly conference calls. Through the GIG meetings, members share information about gaming issues from their respective perspectives, including law enforcement, regulatory, and revenue generation perspectives. By way of example only, GIG has discussed such issues as, trends or patterns in unusual financial transactions being reported, unsourced cash or chips being passed on the gaming floor, and individuals that may present public safety issues. Through these discussions, GIG has identified multiple incidents where further action, such as the imposition of cash / chip conditions on patrons or local or provincial barring under section 92 of the [*Gaming Control Act*], was required.
>
> GIG has facilitated collaboration and cooperation with the various stakeholders and enabled us to better understand incidents that negatively impact the integrity of gaming in British Columbia.

Future State: 100 Percent Account-Based, Known Play and Cashless Casinos

Despite the progress that has been made in eliminating suspicious transactions and reducing the risk of money laundering in the province's casinos, it is evident from the Commission's hearings that both the gaming industry and government are actively pursuing strategies to further enhance the industry's anti–money laundering response. These strategies range broadly from greater collaboration with other sectors of the economy[418] to continued interest in a hard cap on cash transactions,[419] changes to the regulatory model governing the industry,[420] and technological enhancements.[421]

Some of the evidence given regarding opportunities to enhance the gaming industry's anti–money laundering regime focused on the prospect of 100 percent account-based, known play and, eventually, entirely cashless casinos.[422] This evidence offered a compelling vision of a future for the gaming industry in this province in

418 Evidence of J. Lightbody, Transcript, January 28, 2021, p 96.

419 Exhibit 522, Desmarais #1, para 109; Exhibit 78, Beeksma #1, para 93; Evidence of S. Beeksma, Transcript, October 26, 2020, p 109.

420 Evidence of S. MacLeod, Transcript, April 19, 2021, pp 68–72; Evidence of D. Eby, Transcript, April 26, 2021, pp 240–41; Evidence of S. MacLeod, Transcript, April 19, 2021, p 75.

421 Evidence of D. Tottenham, Transcript, November 10, 2020, pp 209–10; Exhibit 484, deBruyckere #2, para 12; Exhibit 148, Tottenham #1, para 189; Exhibit 522, Desmarais #1, para 117.

422 Exhibit 522, Desmarais #1, paras 110–11; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 57, 83–84, 88–89, 118–20; Exhibit 485, deBruyckere #3, paras 9–13; Evidence of K. deBruyckere, Transcript, January 21, 2021, pp 92–95; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 158–61.

which every patron that enters a casino is identified, their transactions and play are automatically tracked through an account linked to both casino and online betting, and cash, historically the dominant method of payment in British Columbia's gaming facilities, has been replaced entirely by secure, traceable alternatives.[423]

Mr. Desmarais set out a detailed vision of this future in his oral evidence:[424]

> In my view – and this is my personal view, Mr. Commissioner – the next step is we need to know every single player that comes through the front door. Not only when they come through the front door. We need to know … every single game they play … whether it be putting money into a slot machine or whether they're playing on a table game, we need to understand that. That will solve a lot of problems.
>
> That will solve – first and foremost, which is quite frankly and with no disrespect to the intent of this Commission, right now my biggest focus is on player health. Our products from time to time do cause harm, and we've got to do something to make sure that we eliminate that harm. There should be no revenue, Mr. Commissioner, from high-risk play. You will find those in our strategic plan. For us to accomplish that we need to know our players better.
>
> We need to know our players better across … our entire product line. They're tied to each other. Most of our players … play online, or at least most of our online players play in casinos. 98 percent of our players buy lottery. We have some products that over time we now know that were traditionally not considered to be that risky are in fact risky from a player health perspective.
>
> We have to do better and the way we do that is by knowing them. We eliminate – when people make the great decision to voluntarily self-exclude from our products, we have to help them to continue … in the spirit of that great decision that our products just aren't right for them. 100 percent known play, Mr. Commissioner, will solve all of that. A hundred percent known play will also reduce the amount of criminality in our facilities.
>
> There are other technologies available to us. You've heard quite a bit about the chip swap. Everyone was uncomfortable with that. We still have liability around chips. It still exists today. There is technology today, however, that will mitigate, virtually eliminate that risk through automated chip tracking, which is in use in Macao and elsewhere with virtually a hundred percent accuracy. That would reduce problematic play. It would

423 Exhibit 522, Desmarais #1, paras 110–11; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 57, 83–84, 88–89. 118–20; Exhibit 485, deBruyckere #3, paras 9–13; Evidence of K. deBruyckere, Transcript, January 21, 2021, pp 92–95; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 158–61.

424 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 158–61.

> reduce issues around who owns what chip. If somebody bought a series of chips, they left the casino and they come back with those chips in somebody else's possession, we would know and they wouldn't be permitted to play with them. That's in the short term.
>
> As we move forward we need to ensure that we have account-based gaming across all our lines of business. Account-based gaming will allow our players an option to move away from cash and to create accounts, properly managed, properly overseen accounts where we can put limits on how much players can play if they have issues or … if they preset their player amounts themselves, which we have in a limited fashion now in slot machines on casinos. But also that will enable us to start using digital wallets.
>
> We're behind, Mr. Commissioner. We need to step into the digital age, particularly on land-based casinos, and … we need to utilize digital payment forms not only as a means to keep our players safe, but also as a means to reduce the risk and potential of crime, whether it be money laundering or anything else. Those are the first and second … steps.
>
> The third step, Mr. Commissioner, is once we get those options really available and incent our players to start using them more, at some point – we're probably talking years down the road, but at some point we'll reach a critical mass where … we'll be able to make a decision – and so it will be … a decision on the part of the province, as well, I suppose, make a decision we're just not – all of the play in casinos will be cashless. That's not going to occur overnight.

I encourage BCLC, GPEB, and government to work collaboratively to bring this vision to fruition as expeditiously as possible. Mr. Desmarais is correct when he describes the gaming industry in this province as being "behind." There was no shortage of evidence in the Commission's hearings that the gaming industry has historically been – and in many respects remains – a cash-based business. There seems little justification for this when Canadian society has, in many respects, moved past physical cash into an age of digital commerce.

The evidence before the Commission indicates that the transition described by Mr. Desmarais has, in some respects, already begun. Mr. deBruyckere gave evidence that a form of 100 percent known play has been instituted as part the COVID-19 reopening plan for casinos, as all patrons are required to produce a rewards card or other casino-issued identification for contact-tracing purposes.[425] In my view, this requirement should, if possible, remain in place permanently (or be reinstituted if it has lapsed), or at the very least, BCLC's experience with this temporary measure should be applied to pursue a permanent form of 100 percent known play to further anti–money laundering measures.

425 Exhibit 485, deBruyckere #3, para 9; Evidence of K. deBruyckere, Transcript, January 21, 2021, p 93.

Mr. deBruyckere also testified that BCLC is actively seeking a technological solution that would enable the expansion of account-based gaming.[426] His evidence was that, in November 2020, BCLC issued a request for a "customer identity and access management" solution to manage player access and permit players to engage with all BCLC products through a single player account.[427] Once in place, this solution combined with a 100 percent known play requirement would move BCLC significantly in the direction of the vision outlined by Mr. Desmarais and much closer to the ultimate goal of cashless casino gaming.

I note that there may well be ancillary benefits, unrelated to concerns about money laundering, to a move toward 100 percent account-based, known play. Mr. Desmarais described the potential advantages from a responsible gaming standpoint, and the potential benefits of known play and account-based gaming for marketing and customer relations purposes are not difficult to identify. These developments may also result in cost savings, including savings arising from a reduction in FINTRAC reporting. In my view, however, the value of pursuing 100 percent known play and account-based gaming is not dependent on these ancillary benefits. These measures are worth pursuing even if they result in a net loss to BCLC or government and even if they ultimately lead to losses in business at the province's casinos.

For these reasons, I recommend that the minister responsible for gaming issue a direction to BCLC to implement 100 percent account-based, known play in this province's casinos. I understand that BCLC has already implemented a form of 100 percent known play for the purposes of contact-tracing and, as of the time of the Commission's hearings, was actively seeking to procure a technological solution to enable 100 percent account-based play. This evidence, alongside the evidence before me of practices in other jurisdictions,[428] makes clear that 100 percent account-based, known play is possible, and I see no reason why the gaming industry in this province should not be able to adopt such measures rapidly. I will leave to the minister to determine a reasonable timeline for implementation of these measures following consultation with BCLC and GPEB.

Recommendation 5: I recommend that the Minister Responsible for Gaming direct the British Columbia Lottery Corporation to implement 100 percent account-based, known play in British Columbia's casinos within a timeframe specified by the minister.

426 Exhibit 485, deBruyckere #3, paras 12–13; Evidence of K. deBruyckere, Transcript, January 21, 2021, p 95.
427 Exhibit 485, deBruyckere #3, paras 12–13; Evidence of K. deBruyckere, Transcript, January 21, 2021, p 95.
428 Exhibit 1037, Report on Known Play by Ernst & Young LLP (April 30, 2021).

Chapter 13
Were Illicit Funds Laundered Through BC Casinos?

Money laundering is defined in the Commission's Terms of Reference as "the process used to disguise the source of money or assets derived from illegal activity." Money or assets derived from illegal activity are known as proceeds of crime. In the context of this Inquiry, a major controversy in the gaming sector is whether, and if so, to what extent, the large amounts of cash, mostly in $20 denominations, organized in bundles of specific values, often secured by elastic bands, carried in a motley collection of containers, sometimes delivered in privately owned vehicles outside of normal business hours and used as cash buy-ins at British Columbia casinos were the proceeds of crime and an integral part of a money laundering scheme.

The controversy has three critical perspectives: the first is whether there is a history of money laundering in British Columbia's gaming sector. The second is focused on the knowledge and understanding of those involved in the gaming industry based on contemporaneous evidence and information. The third is focused on knowledge and understanding of the contemporaneous state of affairs in light of the evidence and information which has been marshalled through this Inquiry.

Exploration of each of these perspectives is mandated by the Terms of Reference in this Inquiry. Paragraph 4(1)(b) of the Terms of Reference requires me to review, "the acts or omissions of regulatory authorities or individuals with powers, duties, or functions in respect of [gaming]." That review must be conditioned by the evidence, information, and understanding that was contemporaneously available to those individuals or those authorities being reviewed. In making findings that may be critical of the acts or omissions of such entities and individuals, it would not be appropriate to conduct that review based on hindsight resting on a foundation of subsequently obtained evidence, information, or understanding.

At the same time, under paragraph 4(1)(a)(i), I am required to inquire into and make findings of fact in respect of "the extent, growth, evolution, and methods of money laundering in the [gaming sector]." Resolving that mandate does necessitate relying on a foundation of subsequently obtained evidence, information, and understanding. It is an equally important perspective from which important factual findings laying the foundations for recommendations may be made.

At the outset of this Inquiry, there was a broadly held belief that proceeds of crime had been laundered through British Columbia casinos. Several media reports and the public discourse supported this narrative. I do not consider these reports or beliefs to be "evidence" on which I can rely. Dr. Peter German, QC, in his March 31, 2018, report titled *Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos* (*Dirty Money 1*) asserted that "for many years, certain Lower Mainland casinos unwittingly served as laundromats for the proceeds of organized crime."[1] While I am directed by the Commission's Terms of Reference "to review and take into consideration" Dr. German's report, I do not consider the conclusions reached by Dr. German, on their own, to be a sufficient basis for findings that may be critical of any individual or organization. I am required to engage in an independent review of the evidence called before the Commission and to arrive at my own conclusions without viewing the opinions or conclusions of Dr. German and others as binding. I have commenced this Inquiry with an open mind on this, and indeed every, topic, and maintained that approach throughout the Commission's proceedings.

In light of that, it is important to address the concept of proof in the context of an inquiry such as this which cannot, and will not, make findings of either criminal complicity or civil liability. To put it another way, whatever findings of fact I make as Commissioner cannot be regarded as the equivalent of finding criminal culpability or civil responsibility. See: *Canada (Attorney General) v Canada (Commission of Inquiry on the Blood System)*, [1997] 3 SCR 440 (*Krever*) at para 34.

In *Krever*, Mr. Justice Cory drew a clear distinction between the essential nature of an inquiry and a civil action or criminal trial in a way that, in my view, has ramifications for the concept of proof in a commission of inquiry.

In para 34 of *Krever*, Justice Cory described the nature of findings in an inquiry as opposed to a trial or civil action in the following terms:

> Rather, an inquiry is an investigation into an issue, event or series of events. The findings of a commissioner relating to that investigation are simply findings of fact and statements of opinion reached by the commissioner at the end of the inquiry. They are unconnected to normal legal criteria. They are based upon and flow from a procedure which is not bound by the evidentiary or procedural rules of a courtroom. There are no legal consequences attached to the determinations of a commissioner. They are

1 Exhibit 832, *Dirty Money 1*, p 10.

not enforceable and do not bind courts considering the same subject matter. The nature of an inquiry and its limited consequences were correctly set out in *Beno v. Canada (Commissioner and Chairperson, Commission of Inquiry into the Deployment of Canadian Forces to Somalia)*, [1997] 2 F.C. 527, at para. 23:

> A public inquiry is not equivalent to a civil or criminal trial … In a trial, the judge sits as an adjudicator, and it is the responsibility of the parties alone to present the evidence. In an inquiry, the commissioners are endowed with wideranging investigative powers to fulfil their investigative mandate … The rules of evidence and procedure are therefore considerably less strict for an inquiry than for a court. Judges determine rights as between parties; the Commission can only "inquire" and "report" … Judges may impose monetary or penal sanctions; the only potential consequence of an adverse finding … is that reputations could be tarnished.

The Commission's exploration of money laundering and anti–money laundering in the gaming sector has been extensive. Evidence on this sector included 20 overview reports, more than 350 exhibits, and over 50 witnesses who testified exclusively or primarily about money laundering and anti–money laundering efforts in this sector. Several other witnesses provided evidence on various economic sectors, including gaming.

Of the 23 participants granted standing at this Inquiry, 10 are primarily concerned with the gaming sector.

The fact that the gaming sector has attracted as much time, attention, and evidence as it has in this Inquiry is not surprising. As I discussed in Chapter 5, money laundering gives rise to real risks and social harm. However, it is by its nature a well-hidden crime. It blends in with innocuous surroundings; its commission makes no noise, causes no obviously visible damage, and leaves no easily identifiable effect. In this country there have been few prosecutions of money laundering and its nature, size, and consequences are not easily or readily understood.

In that context, the visibility of an apparently overt form of money laundering for up to a decade in one of British Columbia's economic sectors relied on, in part, as a source of revenue for the provincial government is bound to capture attention, at least in part, because it may furnish insights into how endemic money laundering is in the anatomy of the province's economy.

In the case of British Columbia's casinos, particularly during the period between approximately 2008 and 2018, very substantial amounts of cash said to be the product of drug trafficking, illegal gaming, and other forms of cash-generating criminal activities were used to fund high-level gamblers in exchange for the anonymity of hidden or camouflaged transactions.

Until 2009, the casino industry in British Columbia was entirely cash-based. The amounts of cash being brought into casinos steadily increased year over year as betting limits increased to the point where in January 2014 a single gambler could bet up to $100,000 on one hand of baccarat. One witness indicated that $7 to $8 billion in cash flowed through British Columbia casinos annually between 2012 and 2015.[2]

Based on the events set out in Chapters 9 to 12 and the entirety of the record before me, it is abundantly clear that significant money laundering took place in the gaming industry over an extended period of time. Between 2008 and 2018, casinos in the Lower Mainland of British Columbia regularly accepted extraordinarily large volumes of cash, much of which was suspicious in nature and bore obvious hallmarks of being the proceeds of crime. Based on its appearance and surrounding circumstances and the size of many of the individual transactions in which it was accepted, there is little room for doubt that much, if not most, of the cash received in these suspicious transactions was, in fact, the proceeds of crime. In this way, hundreds of millions of dollars of illicit cash was accepted by British Columbia casinos and ultimately contributed to the revenues of the provincial government.

The evidence before the Commission establishes that this cash was funneled into British Columbia casinos as part of a complex money laundering scheme. The predominant money laundering typology connected to the gaming industry was the "Vancouver model" in which illicit cash, or casino chips acquired with illicit funds, were provided to gamblers, many of whom had significant wealth abroad, but could not easily access this wealth in Canada, at least for the purpose of gambling. Gamblers provided with illicit cash would use it to gamble, genuinely putting it at risk and often losing it. Whether they won or lost, those gamblers would return the funds in another form, often in another jurisdiction. This accomplished the objectives of those intent on laundering this money by converting bulky and highly suspicious cash into another, less suspicious, form and transferring it elsewhere in the world.

While the process of laundering these criminal proceeds was not completed in its entirety in British Columbia casinos, the long-standing ability and willingness on the part of some Lower Mainland casinos to accept large volumes of highly suspicious cash was integral to the money laundering typology referred to above and discussed in more detail below. The acceptance of these funds ensured a constant demand for extraordinary quantities of cash, offering those intent on laundering this cash a convenient means of disposing of the proceeds of their crimes and a mechanism by which its illicit origins could be obscured.

The discussion that follows addresses the questions of whether, how, when, and where money laundering occurred in this province's casinos. It begins by discussing the evidence that supports the conclusion that proceeds of crime were accepted by casinos and how the acceptance of these funds facilitated the Vancouver model money laundering typology. It then turns to consider the extent of this activity, including the

2 Evidence of R. Kroeker, Transcript, January 25, 2021, pp 187–89.

amount of criminal proceeds laundered in this way and the timeframe and location in which it occurred.

Acceptance of Proceeds of Crime

The evidence before me leaves little room for doubt that much, if not most, of the significant amounts of cash identified by the British Columbia Lottery Corporation (BCLC) as "suspicious" between 2008 and 2018 were the proceeds of crime. In my view, this conclusion is abundantly clear solely from the appearance of this cash and the size and character of the transactions in which it was received and should have been apparent to anyone with a lens into these features of these transactions. Further support for this conclusion is found in the manner in which cash arrived at the province's casinos, the observations of officers involved in two police investigations into these transactions (commenced in 2010[3] and 2015[4] respectively), from the effects of measures intended to reduce suspicious cash in the province's casinos, and from the apparent impact of arrests made by the Joint Illegal Gaming Investigation Team (JIGIT) in 2017.

Volume and Appearance of Cash Transactions

That the province's casinos were routinely accepting illicit funds should have been abundantly clear from the size of suspicious cash transactions accepted by casinos and the appearance of the cash used in those transactions. According to the evidence of witnesses who testified before the Commission, suspicious cash transactions in British Columbia casinos began to increase in 2007.[5] By 2009 the volume of cash entering Lower Mainland casinos had accelerated significantly,[6] and six-figure buy-ins were observed regularly by 2010.[7] Between 2010 and 2015 the number of large and suspicious cash transactions continued to increase.[8] 2014 saw the most drastic increase with buy-ins of $400,000 and higher becoming relatively common.[9]

These observations are consistent with data available regarding large and suspicious transactions during this time period. The "Reports of Findings" prepared by the Gaming

3 IPOC Intelligence Probe.

4 E-Pirate investigation.

5 Evidence of J. Schalk, Transcript, January 22, 2020, pp 109–10; Exhibit 181, Affidavit #1 of Larry Vander Graaf, made on November 8, 2020 [Vander Graaf #1], exhibit G.

6 Exhibit 181, Vander Graaf #1, para 38.

7 Evidence of G. Friesen, Transcript, October 28, 2020, p 83; Evidence of J. Schalk, Transcript, January 22, 2021, pp 111–14.

8 Evidence of D. Dickson, Transcript, January 22, 2020, p 11; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 46–47; Evidence of R. Barber, Transcript, November 3, 2020, pp 13–14, 21; Evidence of S. Lee, Transcript, October 27, 2020, p 19; Exhibit 87, Affidavit #1 of Stone Lee, sworn on October 23, 2020 [S. Lee #1], para 33; Exhibit 145, Affidavit #1 of Robert Barber, made on October 29, 2020 [Barber #1], para 36.

9 Evidence of G. Friesen, Transcript, October 28, 2020, pp 83–84; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 58–59; Exhibit 78, Affidavit #1 of Steve Beeksma, affirmed on October 22, 2020 [Beeksma #1], para 50; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 31–32.

Policy and Enforcement Branch (GPEB) investigation division, discussed in Chapter 10, offer some insight into the frequency of extremely large cash transactions prior to the end of 2014. One such report, dated November 19, 2012,[10] reveals that in a one-year period between August 31, 2010, and September 1, 2011, 80 separate patrons bought-in for over $100,000 on at least one occasion, with a single patron accounting for over $5 million in suspicious cash transactions. The same report indicates that during the nine-month period between January 1 and September 30, 2012, 79 patrons bought-in at least once for $100,000 or more and 17 patrons had total suspicious cash buy-ins of $1 million or more. As time progressed, these remarkably large transactions became increasingly commonplace. In 2014, BCLC reported 595 suspicious transactions with a value of $100,000 or more[11] to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). Incidents of suspicious transactions of $100,000 or more fell only slightly to 527 such transactions in 2015, then declined steadily until 2017 before virtually ceasing in 2018 following implementation of Dr. German's source-of-funds recommendation (as modified by BCLC), discussed in Chapter 12.[12]

Vast volumes of cash are intrinsically a significant money laundering vulnerability and, in my view, the extraordinary size of these transactions is a compelling indicator that the cash of which they were comprised was the proceeds of crime. There is simply no other plausible explanation for how casino patrons could have so frequently obtained such enormous volumes of cash, let alone why they would choose to do so, given the availability, at least as of 2009, of viable alternatives to the use of cash.

Alongside the size of these transactions, the appearance of this cash is a further compelling indicator that much of it was the proceeds of crime. As Sergeant Melanie Paddon, a former RCMP officer with 39 years' experience in law enforcement, the vast majority of which was focused on the investigation of money laundering and proceeds of crime, testified, "[I]t's never just the cash. It's the circumstances that surround [it]."[13]

I have heard significant evidence concerning accepted indicators that cash is the proceeds of crime. This includes evidence from experts including Simon Lord, a senior officer with the United Kingdom's National Crime Agency, and Sergeant Paddon, an expert in cash bundling. Mr. Lord testified that bundling cash in $10,000 blocks, fixing it with elastic bands, and organizing it in non-uniform orientations are common indicators of criminal proceeds.[14] Similarly, Sergeant Paddon testified that cash facing different directions, bound with elastic bands, arranged in bricks of $1,000, $2,000, $5,000, or $10,000 and carried in bags, suitcases, or boutique bags all suggest that the cash is the proceeds of crime.[15] Other witnesses with experience in law enforcement

10 Exhibit 181, Vander Graaf #1, exhibit G.

11 Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2020 [Cuglietta #1], exhibit A. Note: "Cathy Cuglietta" and "Caterina Cuglietta" refer to the same witness.

12 Exhibit 482, Cuglietta #1, exhibit A.

13 Evidence of M. Paddon, Transcript, April 14, 2021, p 20.

14 Evidence of S. Lord, Transcript, May 29, 2020, pp 10–12.

15 Evidence of M. Paddon, Transcript, January 15, 2021, pp 150–53; Evidence of M. Paddon, Transcript, April 14, 2021, pp 16–22.

testified that "drug money" or "street money" is commonly wrapped in elastic bands or in plastic, consisting largely of $20 bills[16] arranged in bricks of specific value, often $10,000[17] and transported in shopping bags, suitcases, or sports bags.[18] This can be compared to cash from banks, which witnesses testified is usually wrapped in paper bands, bundled according to a set number of notes – as opposed to value – and comprised of notes oriented to face in the same direction.[19]

The descriptions of criminal proceeds offered by Sergeant Paddon and other witnesses are notable for their similarity to the descriptions of the cash accepted in suspicious transactions in this province's casinos. The evidence before me establishes that the cash used in many of these transactions, which often took place very late at night or very early in the morning, often consisted of misoriented $20 bills, bound with elastics and carried in boxes, bags, or suitcases.[20] In some cases, the cash displayed further, more egregious, reasons for suspicion, including cash that was burnt, bloodied, covered in white powder,[21] or smelling of illegal or suspicious substances.[22] These observations provide further reason to question the legitimacy of the sources of cash used in casinos generally.

The consistency of the appearance of cash accepted by casinos with commonly accepted indicators of proceeds of crime was also identified directly by several witnesses who gave evidence in the Commission's proceedings. Sergeant Paddon, for example, who was engaged in the Integrated Proceeds of Crime (IPOC) intelligence probe that began in 2010, concluded that the commonly accepted indicators of illicit cash identified in her evidence aligned with

16 Evidence of J. Karlovcec, Transcript, October 29, 2020, p 74–75; Evidence of R. Barber, Transcript, November 3, 2020, p 14–15; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 114, 173; Exhibit 181, Vander Graaf #1, para 54; Evidence of J. Schalk, Transcript, January 22, 2021, pp 112–13.

17 Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 74–75; Evidence of M. Hiller, Transcript, November 9, 2020, p 12; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 3–4; Evidence of S. Lord, Transcript, May 29, 2020, p 11; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 56, 114, 173; Exhibit 181, Vander Graaf #1, para 54; Evidence of M. Paddon, Transcript, April 14, 2021, pp 16–17; Evidence of D. Dickson, Transcript, January 22, 2021, p 6; Evidence of J. Schalk, Transcript, January 22, 2021, pp 112–13.

18 Evidence of M. Paddon, Transcript, April 14, 2021, pp 16–17; Evidence of D. Dickson, Transcript, January 22, 2021, p 6; Evidence of J. Schalk, Transcript, January 22, 2021, p 112.

19 Evidence of M. Paddon, Transcript, April 14, 2021, pp 16–17; Evidence of S. Lord, Transcript, May 29, 2020, pp 10–12; Evidence of J. Karlovcec, Transcript, October 29, 2020, p 75; Evidence of M. Hiller, Transcript, November 9, 2020, p 12; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 47–48; Exhibit 663, Affidavit of Cpl. Melvin Chizawsky, made on February 4, 2021 [Chizawsky], para 97.

20 Evidence of D. Dickson, Transcript, January 22, 2021, p 6; Evidence of J. Schalk, Transcript, January 22, 2021, pp 111–14; Exhibit 166, Affidavit #1 of Michael Hiller, sworn on November 8, 2020 [Hiller #1], paras 58–59; Evidence of M. Hiller, Transcript, November 9, 2020, pp 8–9; Evidence of M. Graydon, Transcript, February 11, 2021, p 17; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 89–90; Evidence of K. Ackles, Transcript, November 2, 2020, pp 11–12, 174–75; Evidence of R. Barber, Transcript, November 3, 2020, pp 13–15, 97–100; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 46–47; Evidence of T. Doyle, Transcript, February 9, 2021, pp 183–84; Exhibit 145, Barber #1, paras 29–30; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 56, 114, 173; Exhibit 181, Vander Graaf #1, para 54; Evidence of M. Paddon, Transcript, April 14, 2021, pp 16–22.

21 Evidence of T. Towns, Transcript, January 29, 2021, p 151; Evidence of D. Dickson, Transcript, January 22, 2021, p 83.

22 Evidence of D. Sturko, Transcript, January 28, 2021, pp 123–25; Evidence of D. Dickson, Transcript, January 22, 2021, p. 83; Exhibit 181, Vander Graaf #1, para 37.

the cash observed in British Columbia casinos during this investigation.[23] Further, several of the witnesses who testified about their experience working in the gaming industry also had law enforcement experience, which they drew on in giving evidence that indicators of illicit cash were commonly observed in the large cash transactions taking place in the province's casinos.[24] Kenneth Ackles, for example, who joined GPEB as an investigator in 2013 after 37 years as a member of the RCMP, gave the following evidence:[25]

> My experience as a policeman gave me the impression that the way that these bills were presented and in the fashion that they were presented, wrapped in elastic bands, packaged in bundles with misorientated bills – and I mean that by either face up, face down, reversed within the bundles – was significant to me from my experience in other investigations where I also had an opportunity to view bundled cash at the scenes of investigations that I conducted where cash was seized, it was the proceeds of crime or significantly the result of a commodity exchange in a criminal investigation.

Michael Hiller, who worked as a BCLC investigator from 2009 until 2019 after more than 28 years with the RCMP, identified the features of these transactions that aroused his suspicion as follows:[26]

> First off, the large quantity of $20 bills which were frequently involved in these large cash transactions … It could be $50 bills and $100 bills, but certainly the large quantity of $20 bills, they were consistently bundled in a similar manner with elastic bands. There were other indicators such as deliveries of such cash to the casino and/or passing of such cash to the casino.
>
> There are indicators such as a VIP player already playing with chips, losing all the chips, making a cellphone call and then another delivery of money occurred. There were some times when I knew from my video review that the VIP player was out of chips at the table, had lost everything, met up with somebody in a nearby washroom on the floor, reappeared at the table and now had cash or chips to buy in again.
>
> Circumstances where a VIP player would leave the casino for a very short amount of time, get into a vehicle, drive a very short distance … (and) … returned to the casino and now had a bag of cash to buy in."

Mr. Hiller went on to explain that the manner in which this cash was bundled was consistent with his understanding, based on his law enforcement experience, of how cash is packaged in the drug trade.[27]

23 Evidence of M. Paddon, Transcript, April 14, 2021, pp 16–22.

24 Evidence of K. Ackles, Transcript, November 2, 2020, pp 11-12; Evidence of R. Barber, Transcript, November 3, 2020, pp 14–15; Exhibit 145, Barber #1, paras 29–30; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 56, 114, 173; Exhibit 181, Vander Graaf #1, para 54; Evidence of M. Hiller, Transcript, November 9, 2020, pp 8–9.

25 Evidence of K. Ackles, Transcript, November 2, 2020, p 11.

26 Evidence of M. Hiller, Transcript, November 9, 2020, pp 8–9.

27 Ibid, pp 10-12.

Robert Barber worked as a GPEB investigator from 2010 until 2017, following 30 years with the Vancouver Police Department. He offered similar evidence of his view of these transactions in his affidavit. He indicated, however, that he did not believe it was necessary to have law enforcement experience to appreciate the irregularities in these transactions and that, in his view, "common sense" was sufficient to identify that this cash was obviously illegitimate.[28]

> The transactions that I found shocking and concerning would typically involve patrons buying-in at the casino using cash packaged in rubber bands, cardboard boxes or shopping bags and not in the manner I understood cash obtained from a financial institution would be packaged. These transactions were frequently in amounts of $50,000 or more, typically entirely or predominantly in $20 bills.
>
> Even though I had no experience in money laundering or proceeds of crime investigations, it was immediately apparent to me that this cash was likely the proceeds of crime. This belief was not necessarily from my experience in law enforcement, as opposed to common sense. Multiple people were delivering cash to the casino in plastic bags and cardboard boxes. It seemed obvious to me that this cash had to relate to illegitimate businesses.

On their own, the volume and appearance of the cash accepted in suspicious transactions by this province's casinos offer ample basis for the conclusion that much, if not most, of this cash was the proceeds of crime. This cash was often received in extraordinarily large quantities of $100,000 or more and was commonly presented in a manner bearing multiple well-established indicators that it was the proceeds of crime. As discussed later in this chapter, no witness who testified offered a plausible alternative legitimate explanation for the frequency, magnitude, and character of the large cash buy-ins at Lower Mainland casinos during this time period. There is simply no other rational explanation that accounts for both the size of these transactions and their appearance, and I have little difficulty concluding on this basis that British Columbia casinos did routinely accept the proceeds of crime.

Additional Evidence Supporting the Conclusion that BC Casinos Accepted the Proceeds of Crime

As indicated above, it is abundantly clear from both the size of the suspicious transactions conducted in the province's casinos and the appearance of the cash accepted in those transactions that much, if not most, of this cash was illicit in origin. While, in my view, no further evidence is required to reach this conclusion, the record before the Commission does offer additional support for this finding. This includes evidence of the manner in which the cash used in these transactions sometimes arrived at casinos, the observations of officers engaged in two relevant law enforcement investigations (commenced in 2010

28 Exhibit 145, Barber #1, paras 29–30; see also Evidence of R. Barber, Transcript, November 3, 2020, p 84.

and 2015), the effect of measures intended to combat the use of illicit cash in the gaming industry beginning in 2015, and a decline in suspicious transactions that occurred following nine arrests made by the Joint Illegal Gaming Investigation Team in 2017.

Manner in which Cash Arrived at BC Casinos

While it was not uncommon for patrons to arrive at casinos in the Lower Mainland already in possession of cash they would use to gamble, there is substantial evidence in the record before the Commission that cash was frequently delivered to patrons after their arrival, often seemingly in response to a phone call from the patron, often late at night or very early in the morning, outside of standard business hours.[29] While not definitive proof that these funds were the proceeds of crime, this evidence supports the conclusion that they were, as it suggests that the funds had not been sourced from conventional financial institutions and, alongside their volume and appearance, is highly suggestive of something unusual about their origins.

Observations of Officers Engaged in 2010 and 2015 Police Investigations

As discussed in detail in Chapters 3 and Chapter 39, the RCMP IPOC unit and Federal Serious and Organized Crime (FSOC) unit commenced investigations into suspicious transactions in British Columbia casinos in 2010 and 2015 respectively. Multiple officers involved in these investigations gave evidence in the course of the Commission's hearings.[30] Several of these officers had extensive experience and expertise in proceeds of crime investigations including Sergeant Paddon, Calvin Chrustie, and Barry Baxter – all former members of the RCMP IPOC unit – as well as Melvin Chizawsky.[31]

The observations made by these experienced officers in the course of the two investigations further support the conclusion that much of the suspicious cash received by British Columbia casinos was the proceeds of crime. While the 2010 investigation, described as an "intelligence probe" and discussed in detail in Chapter 39, did not establish a definitive link between this cash and criminal activity, the investigators responsible were persuaded that these funds were illicit in origin. This belief is captured in the following synopsis contained in a January 2012 investigational planning report proposing the continued investigation of this activity:[32]

29 Exhibit 181, Vander Graaf #1, exhibits L, O, P; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 29–30, 39, 73, 81; Evidence of M. Hiller, Transcript, November 9, 2020, pp 8–9; Exhibit 79, Affidavit #2 of Steve Beeksma, affirmed on October 22, 2020 [Beeksma #2]; Exhibit 144, Affidavit #3 of Ken Ackles, made on October 28, 2020 [Ackles #3], exhibit D; Exhibit 507, Affidavit No. 1 of Derek Sturko, made on January 18, 2021 [Sturko #1], exhibit E.

30 Evidence of C. Chrustie, Transcript, March 29, 2021; Exhibit 663, Chizawsky; Evidence of B. Baxter, Transcript, April 8, 2021; Evidence of M. Paddon, Transcript, April 14, 2021 and Transcript, January 15, 2021; Evidence of M. Chizawsky, Transcript, March 1, 2021.

31 Exhibit 425, Curriculum Vitae of Melanie D. Paddon; Exhibit 663, Chizawsky, pp 3–9, 44; Evidence of C. Chrustie, Transcript, March 29, 2021, pp 2–9; Evidence of B. Baxter, Transcript, April 8, 2021, pp 2–5; Evidence of M. Paddon, Transcript, January 15, 2021, pp 111–13 and Transcript, April 14, 2021, pp 4–6; Evidence of M. Chizawsky, Transcript, March 1, 2021, pp 18–20.

32 Exhibit 760, Casino – Investigational Planning & Report – IPOC (January 30, 2012) [IPOC Report 2012], p 1; see also Exhibit 759, Casino Summary & Proposal – IPOC – December 2011.

> Tens of millions of dollars in large cash-transactions (many transactions well over $100,000, much of it in $20 bills) are funnelled-through several of the larger casinos in B.C on an annual basis. Intelligence has revealed that the origin of much of these funds are derived from criminal activity and are the Proceeds of Crime.

While the investigation proposed in this January 2012 report did not proceed, the RCMP FSOC Unit commenced surveillance connected to suspicious transactions at the urging of BCLC in 2015.[33] In several days of surveillance, conducted over the course of approximately three months, the FSOC officers believed they had established a direct link between suspicious cash presented to Lower Mainland casinos by "VIP" patrons and an illegal cash facility based in Richmond, British Columbia, with links to transnational drug trafficking and terrorist financing.[34] This investigation and the observations of the officers involved is addressed in detail in Chapter 3.

I understand that neither of these investigations ultimately resulted in any convictions and that the 2010 intelligence probe did not result in any charges. Nevertheless, the observations of the experienced and highly qualified officers involved in these investigations, suggesting direct links between criminal activity and the highly suspicious cash routinely accepted by the province's casinos, provide some additional support for the conclusion that much of this cash was the proceeds of criminal activity.

Effect of Measures Intended to Reduce Suspicious Cash

Further support is found in the impact of measures aimed at reducing suspicious transactions and, by extension, money laundering. These measures principally included the implementation and growth of BCLC's cash conditions program, discussed in Chapter 11, and the implementation of Dr. German's source-of-funds recommendation, as modified by BCLC, discussed in Chapter 12.

As described in Chapter 11, near the end of 2014, BCLC placed a single casino patron on conditions that prohibited him from buying-in with unsourced cash. A second patron was placed on such conditions in April 2015. A formal protocol governing the imposition of such conditions was introduced later the same month, and in August 2015,[35] following law enforcement's identification of a link between proceeds of crime

33 Exhibit 148, Affidavit #1 of Daryl Tottenham, sworn on October 30, 2020 [Tottenham #1], paras 124–25; Evidence of D. Tottenham, November 4, 2020, pp 119–20; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 118–21; Exhibit 522, Affidavit #1 of Brad Desmarais, affirmed on January 28, 2021 [Desmarais #1], para 76; Evidence of C. Chrustie, Transcript, March 29, pp 62–66.

34 Exhibit 522, Desmarais #1, exhibit 55; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 121–22; Evidence of C. Chrustie, Transcript, March 29, 2021, pp 67–69; Evidence of R. Alderson, Transcript, September 9, 2021, pp 41–43.

35 Evidence of J. Lightbody, Transcript, January 28, 2021, p 38 and Transcript, January 29, 2021, pp 117–18; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 117–18; Evidence of M. Hiller, Transcript, November 9, 2020, p 126; Evidence of B. Desmarais, Transcript, February 2, 2021, p 106.

and casino buy-ins, 10 additional patrons were placed on conditions.[36] By the end of 2015, a total of 42 patrons had been placed on conditions that prohibited them from buying-in with unsourced cash.[37] That year, the total value of transactions reported as suspicious by BCLC reflected a modest decrease from the previous year.[38] The following year, 2016, during which an additional 61 patrons were placed on conditions,[39] the value of suspicious transactions reported by BCLC fell more dramatically to less than half of what it had been in 2015.[40] This precipitous decline carried on into 2017 as the number of patrons subject to conditions continued to grow and the total value of suspicious transactions fell to just over a quarter of 2014 levels.[41]

The cash conditions program continued to expand in 2018,[42] and was supplemented in January of that year by the implementation of Dr. German's source-of-funds recommendation, discussed in Chapter 12.[43] As modified by BCLC,[44] the measures implemented in response to this recommendation required all patrons buying-in with more than $10,000 in cash (as well as other bearer monetary instruments) in a 24-hour period to present proof of the source of their funds.[45] Despite the significant reduction in suspicious transactions already achieved through the cash conditions program, the implementation of this measure precipitated a dramatic acceleration in the rate of decline in the use of suspicious cash in casinos. In 2018, the year in which the recommendation was implemented, the total value of suspicious transactions reported by BCLC fell to $5,520,550, less than 12 percent of what it had been the previous year.[46] Similar reductions are observed in the rates of large cash transactions reported to FINTRAC during this same time period. In 2014, 34,720 large cash transactions, with a total value of more than $1.184 billion, were reported to FINTRAC from British Columbia casinos.[47] By 2018, this fell to 13,511 transactions with a total value of $174 million, less than 15 percent of the 2014 cumulative value.[48]

That the timing of these significant drops in the number and value of large and suspicious cash transactions entering the gaming industry was so closely correlated to the implementation of the cash conditions program and to Dr. German's recommendation

36 Evidence of D. Tottenham, Transcript, November 4, 2020, p 177 and Transcript, November 10, 2020, pp 143–44; Evidence of R. Alderson, Transcript, September 9, 2021, pp 132–33.

37 Exhibit 482, Cuglietta #1, exhibit A.

38 Exhibit 784, Affidavit #2 of Cathy Cuglietta, sworn on March 8, 2021 [Cuglietta #2], exhibit A.

39 Exhibit 482, Cuglietta #1, exhibit A.

40 Exhibit 784, Cuglietta #2, exhibit A.

41 Exhibit 482, Cuglietta #1, exhibit A; Exhibit 784, Cuglietta #2, exhibit A.

42 Exhibit 482, Cuglietta #1, exhibit A

43 Exhibit 832, *Dirty Money 1*, p 247.

44 Exhibit 78, Beeksma #1, para 82; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 75–76; Exhibit 490, Affidavit #1 of Robert Kroeker, made on January 15, 2021 [Kroeker #1], paras 226–28; Exhibit 505, Affidavit #1 of Jim Lightbody, sworn on January 25, 2021 [Lightbody #1], para 261.

45 Exhibit 490, Kroeker #1, para 228; Exhibit 78, Beeksma #1, para 82; Evidence of S. Lee, Transcript, October 27, 2020, pp 40–41; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 75–76.

46 Exhibit 784, Cuglietta #2, exhibit A.

47 Exhibit 482, Cuglietta #1, exhibit A.

48 Ibid.

suggests that these measures played a significant role in causing these declines. When required to account for their source of funds, those who had been buying-in with large quantities of cash could not, or would not, do so. While I accept that patrons may have ceased or reduced cash buy-ins in response to this measure for varied reasons, the most obvious explanation for this pattern is that there was not a legitimate source that could be identified. This, in my view, supports the contention that a substantial portion of the funds identified as suspicious, which were previously accepted by the province's casinos, and which disappeared following implementation of these measures, were, in fact, the proceeds of crime. When viewed in the context of the size and appearance of these transactions and the observations of the officers involved in the police investigations referred to above, the disappearance of suspicious funds following the implementation of these measures strongly suggests that the reason for much of the decline of suspicious funds is that patrons were unable to prove the legitimate origins of the cash they had previously relied on to gamble with, because that cash did not have legitimate origins.

2017 JIGIT Arrests

In June of 2017, nine individuals were arrested as part of an investigation by the Joint Illegal Gaming Investigation Team, the creation of which was described in Chapter 11.[49] JIGIT issued a press release and held a press conference to announce the arrests.[50] While the individuals arrested were not publicly identified in the press release or press conference, JIGIT did indicate that the investigation related to money laundering "through casinos." The press release said, in part:[51]

> In May of 2016, the investigation determined that a criminal organization allegedly operating illegal gaming houses, was also facilitating money laundering for drug traffickers, loan sharking, kidnappings, and extortions within the hierarchy of this organized crime group, with links nationally and internationally, including mainland China.
>
> The investigation also revealed several schemes related to the collection and transferring of large amounts of money within and for the criminal organization.
>
> During the investigation, it was apparent that there were multiple roles filled by different people which enabled or facilitated the organization in laundering large amounts of money through casinos.

Following these arrests, there was a brief but significant decrease in suspicious transactions.[52] The evidence before me is not sufficient to conclude definitively that

49 Evidence of K. Ackles, Transcript, November 2, 2020, pp 157–59; Evidence of D. Tottenham, Transcript, November 5, 2020, p 10; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 135–36 and Transcript, January 26, 2021, pp 152–53, 185-186; Exhibit 490, Kroeker #1, para 169.

50 Exhibit 490, Kroeker #1, para 169 and exhibit 89; Exhibit 505, Lightbody #1, exhibit 40.

51 Exhibit 505, Lightbody #1, exhibit 40.

52 Exhibit 148, Tottenham #1, para 97 and exhibit 108; Exhibit 490, Kroeker #1, para 175; Evidence of R. Kroeker, Transcript, January 25, 2021, p 136; Evidence of D. Tottenham, Transcript, November 5, 2020, pp 10–12.

these arrests caused this decline in suspicious activity. However, the correlation in time between the arrests and the decline in suspicious cash, considered together with other indicators that much of the suspicious cash accepted in the province's casinos was derived from crime, buttresses the conclusion that a significant portion of the cash entering casinos in the province continued to have illicit origins until at least 2017.

Alternative Explanations for Large and Suspicious Cash Transactions

In my view, the evidence referred to above presents a powerful case that the suspicious cash routinely accepted by British Columbia casinos was illicit in origin. However, several alternative explanations have been put forward for the possible origins of this cash. In some instances, these alternative theories were advanced in the course of the Commission's hearings, while others emerged from evidence that I heard regarding explanations that were put forward during the time period that these transactions were prevalent. The alternative explanations suggested for the sources of this suspicious cash included cash-based business, legitimate financial institutions, automated teller machines (ATMs), underground banking, and cash imported from outside of Canada. Below, I consider whether any of these explanations offer a plausible basis to question the conclusion that much of the suspicious cash accepted in the province's casinos was derived from crime.

Cash-Based Businesses

Cash sourced from cash-based businesses such as construction and renovation businesses, restaurants, or adult entertainment was one explanation offered for the highly suspicious cash received by British Columbia casinos.[53] I understand that the theory underlying this possible explanation is that, rather than depositing their cash revenue in a bank, the proprietors of cash-based businesses would use that cash to gamble in casinos. As such, while conceivable that this cash could be linked to the evasion of taxes, its origins would be in legitimate, rather than illicit, business activity.

Legitimate Financial Institutions and ATMs

Legitimate financial institutions were another source of cash propounded by witnesses before the Commission. Bud Smith, the former chair of the board of BCLC, for example, testified that a report from the Bank of Canada showed that $20 bills were the most common denomination of cash, accounting for 40 to 45 percent of cash in circulation.[54] Others testified that casino patrons withdrew large volumes of cash from ATMs, which only dispensed $20 bills at the time,[55] and from the "Global Cash" service on site in casinos.[56]

53 Evidence of T. Towns, Transcript, January 29, 2021, p 147; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 70–71.

54 Evidence of B. Smith, Transcript, February 4, 2021, p 66.

55 Evidence of R. Kroeker, Transcript, January 25, 2021, p 187.

56 Ibid, pp 187–89.

Underground Banking

Several witnesses suggested that "legitimate" underground banking, meaning *hawala*-type systems (discussed in Chapter 37) *not* using illicit funds, could account for some of the cash accepted by the province's casinos.[57] The question of whether such underground banking systems are inherently illegal was raised in the evidence before the Commission.[58] I do not see it as necessary to resolve this question here, but note that such systems remove the verification mechanisms of regulated banking. No witness offered a basis for determining that the funds used by any such service were not criminal in origin, absent these mechanisms.

Cash Imports

A number of witnesses raised the prospect that large volumes of cash could be imported from Mainland China, in some cases via Hong Kong.[59] A 2012 freedom of information (FOI) request was referred to in support of this proposition.[60] Brad Desmarais, who has served in multiple executive roles within BCLC, testified that the response to this FOI request showed that $168 million was declared at ports of entry in BC and that $4 million was seized at the border. However, it was not conclusive as to whether these funds were in cash.[61]

Inadequacy of Alternative Explanations for Large and Suspicious Cash Transactions

In my view, these alternative explanations for the suspicious cash prevalent in the province's gaming industry do not offer any basis to seriously question the conclusion that much of this cash was the proceeds of crime. I cannot completely rule out that *some* portion of the cash accepted by the province's casinos during the time period in question originated from legitimate cash-based business or ATMs, was physically transported to Canada from other jurisdictions, or originated from some other non-illicit source. However, none of these suggested sources, in my view, provide a plausible explanation for the enormous volume of cash accepted by the province's casinos, let alone its striking consistency with descriptions of commonly accepted indicators of criminal proceeds. Further, the alternative explanations do not explain the observations made by the experienced and highly qualified officers involved in the police investigations commenced in 2010 and 2015 into the source of this cash, or the impact of the 2017 arrests made by JIGIT.

57 Evidence of T. Towns, Transcript, January 29, 2021, p 147; Evidence of B. Desmarais, Transcript, February 1, 2021, p 84; Evidence of P. Ennis, Transcript, February 3, 2021, pp 89–91; Evidence of M. Graydon, Transcript, February 11, 2021, p 47.

58 Evidence of B. Desmarais, Transcript, February 1, 2021, p 86 and Transcript, February 2, 2021, pp 89–92.

59 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 70–71; Exhibit 166, Hiller #1, paras 77–82; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 65–72; Exhibit 522, Desmarais #1, paras 30–31, exhibit 8.

60 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 65–72; Exhibit 522, Desmarais #1, paras 30–31 and exhibit 8.

61 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 65–72; Exhibit 522, Desmarais #1, paras 30–31 and exhibit 8.

Conclusion

For the reasons outlined above, I am persuaded that much, if not most, of the suspicious cash accepted in British Columbia's gaming industry was the proceeds of crime. This conclusion is abundantly clear from the size and character of the transactions observed and recorded in the province's casinos, and this evidence alone offers a sufficient basis for this conclusion. Further support for this conclusion is found in the observations of highly experienced officers involved in police investigations undertaken in 2010 and 2015, in the results of efforts to reduce suspicious cash in the industry, in the correlation between arrests made in 2017 and a decline in suspicious transactions, and in the absence of any plausible legitimate explanations for these transactions. Taken together, this evidence presents an incontrovertible case that these suspicious transactions were comprised predominantly of the proceeds of crime.

Money Laundering Typologies

The proceeds of crime accepted by British Columbia casinos from VIP patrons for the purpose of gambling was part of a money laundering typology commonly referred to as the Vancouver model. This phrase was coined by John Langdale, an Australian academic, to refer to a distinct money laundering typology, described below.[62] While there are isolated incidents suggestive of at least one other typology in occasional use in the industry, the evidence before me suggests that the Vancouver model was not only the primary typology employed in the gaming sector, but also the only typology in use at any significant level. The discussion that follows describes the Vancouver model and identifies the evidence that supports the conclusion that it was in use in the gaming sector, before briefly discussing two other typologies.

The Vancouver Model Money Laundering Typology

Under the Vancouver model money laundering typology, as it operated in connection with British Columbia's gaming industry, casino patrons provided with large quantities of illicit cash would use that cash to gamble and return it in a different form, sometimes in another jurisdiction (often via electronic funds transfer, in China). In this way, those intent on laundering money through this model were able to rid themselves of bulky, illicit cash, while transferring its value into a more convenient and less suspicious form in another jurisdiction. Evidence that the suspicious transactions observed in the province's casinos were connected to this typology is found in information provided to Mr. Hiller in 2014, in the observations made by officers engaged in the two police investigations referred to above, and in information obtained by BCLC through casino patron interviews conducted as part of its cash conditions program.

62 Evidence of S. Schneider, Transcript, May 26, 2020, pp 28–31.

Theories of GPEB Investigation Division and BCLC Investigator Mike Hiller and Information Obtained by Mr. Hiller

As early as 2009, BCLC investigator Mike Hiller hypothesized that the highly suspicious cash transactions growing in frequency in the province's casinos were connected to a money laundering typology involving the provision of illicit cash to casino patrons and the return of those funds in other forms and/or locations.[63]

Mr. Hiller explained in his evidence that he became aware of this money laundering typology during his lengthy policing career and came to believe that it was being employed in the gaming industry almost immediately upon joining BCLC in 2009. He described his understanding of this typology in his testimony as follows:[64]

> A My theory was that these VIP players were being provided this cash by organized crime and they were simply being used as a vehicle … for organized crime to get rid of this money … through the money laundering process.
>
> Q Did you have a theory as to how the repayment was being made?
>
> A I believed it was being made sometimes locally. That would have happened, of course. But I also believed that the higher-level VIP players that were borrowing hundreds of thousands of dollars were repaying it to the organization in China.

Mr. Hiller was not alone in this view. Members of the GPEB investigation division, led by executive director Larry Vander Graaf, a former RCMP officer with extensive policing experience and expertise in proceeds of crime investigations,[65] developed a similar belief around this time. Joe Schalk, also a former RCMP officer and the division's senior director at this time, communicated this theory to BCLC in a letter dated February 28, 2011. This letter, addressed to BCLC's manager of investigations, Gord Friesen, said in part:[66]

> Large quantities of $20.00 bill denominations will continue to be and are at present properly reported to the various authorities as "Suspicious Currency", both by the service provider and BCLC. Patrons using these large quantities of $20.00 currency buy-ins may not in some, certainly not all cases, be directly involved with or themselves be criminals. Regardless of whether they win or lose all of the money they buy in with, we believe, in many cases, patrons are at very least FACILITATING the transfer of and/or the laundering of proceeds of crime. Those proceeds may have started out 2 or 3 persons or groups removed from the patron using these

63 Evidence of M. Hiller, Transcript, November 9, 2020, pp 22–23.

64 Ibid.

65 Exhibit 182, Curriculum Vitae of Larry Peter Vander Graaf; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 3–7.

66 Exhibit 112, Letter from Joe Schalk re Money Laundering in BC Casinos (February 28, 2011).

> instruments to play in the casino. Regardless, money is being laundered. The end user, the patron, MUST STILL pay back all of the monies he/she receives in order to facilitate his buy-in with $20.00 bills and for the person on the initial start of the facilitation process, the money is being laundered for him/her, through the use of the gaming venue. [Emphasis in original.]

I do not suggest that the existence of these theories serve as evidence that they were correct, though it is notable that these highly experienced police officers seem to have separately arrived at the same conclusion. In 2014, however, Mr. Hiller received support for this theory from a confidential source. He described the information he received at this time in his affidavit as follows:[67]

> In 2014, a confidential source whom I considered to be a reliable source of information told me that major loan sharks were operating in BC casinos, and that the vast majority of VIPs get the money they gamble with in Lower Mainland casinos from loan sharks. I was told that these loans, plus a commission, are repaid in China, and that good customers pay a lower commission. Immediately upon learning this information, I prepared an iTrak incident report detailing what I had been told and brought the incident report to the attention of Mr. Friesen and Mr. Karlovcec.

While neither Mr. Hiller's belief in his theory nor that of the members of the GPEB investigation division are proof that the theory was correct, the information obtained by Mr. Hiller from this confidential source supports the conclusion that Mr. Hiller and Mr. Schalk had correctly identified the money laundering typology connected to large cash transactions in Lower Mainland casinos.

Observations of Officers Engaged in 2010 and 2015 Police Investigations

As discussed above, several years prior to Mr. Hiller receiving this information, the IPOC investigators that undertook the intelligence probe into these transactions beginning in 2010 reached a similar conclusion as to the money laundering typology in use in the gaming industry. The January 2012 investigational planning report referred to earlier in this chapter described the typology believed to be connected to these suspicious transactions as follows:[68]

> In a one-year period (ending August, 2011), almost $40 million dollars in suspicious buy-ins were identified, with the vast majority of these being in $20 bills.
>
> As noted, the individuals actually conducting the buy-ins at the casino, and doing the gambling, were wealthy Chinese businessmen, many with little to no ties to Canada. They choose to gamble at the casinos here, and to do so, they need ready access to significant amounts of Canadian cash.

67 Exhibit 166, Hiller #1, para 74.

68 Exhibit 760, IPOC Report 2012.

> Typically, they are wealthy, but their funds are overseas (PRC) [People's Republic of China] and are subject to PRC government currency export and transaction-restrictions. These PRC government rules make it extremely difficult for these gamblers to get their money out of the PRC and into a Canadian bank account, where they can access it for their gambling activities. Thus they may "have the money", but lack the ready access to large amounts of Canadian cash.
>
> To fulfill the need of these gamblers for Canadian cash, there are several groups of people known to regularly frequent the River Rock and Starlight casinos. Investigation by IPOC ... to date indicates that these groups of loan-shark "facilitators" are constantly present in and around the casinos, ready to supply large quantities of cash to these high-roller players. These high-roller players typically pay-back their losses via bank-deposits in the PRC or Hong Kong, which are ultimately brought back to Canada by the loan-sharks (in non-cash form) as "legitimate" money. This is often done by international money-laundering groups, using a "hawalla" [*sic*] style of debt-settlement, where a debt in Canada can be paid-back with a corresponding credit overseas (or vice-versa), with actual money rarely even changing hands between the parties.

The officers engaged in the investigation commenced by the FSOC Unit in 2015 reached similar conclusions, as described in detail in Chapter 3.

BCLC Patron Interviews

Finally, the conclusion that the Vancouver model money laundering typology was employed in the province's gaming industry is supported by evidence of information obtained by BCLC in the course of interviews of casino patrons conducted as part of its cash conditions program. Patrons described the source of the cash they used in British Columbia casinos in a manner consistent with the model described above.[69] Steve Beeksma, who joined BCLC as an investigator in 2008, after working for several years for Great Canadian Gaming Corporation (Great Canadian)[70] was involved in a significant number of these interviews. He gave the following evidence:[71]

> As previously mentioned, BCLC's AML [Anti-Money Laundering] Unit targeted players suspected of receiving cash from [Paul] Jin at the beginning of BCLC's cash conditions program and they were asked about the nature of their dealings with Mr. Jin during their interviews. While it was not clear to us whether interest was being charged by Mr. Jin in respect of all of his customers, during these interviews we were often told that higher-level

69 Evidence of B. Desmarais, Transcript, February 1, 2021, pp 152–53; Exhibit 78, Beeksma #1, para 75, exhibit AA; Exhibit 522, Desmarais #1, exhibit 29.

70 Exhibit 78, Beeksma #1, para 8.

71 Ibid, para 75.

> borrowers were not being charged interest. We were also told by some players interviewed that the funds they were borrowing from Mr. Jin were later repaid in China. This was the first time that I understood that this was how funds were being acquired and repaid by Mr. Jin's customers.

Based on all of this evidence, it is abundantly clear, in my view, that the enormous quantities of illicit cash that came to be accepted in British Columbia's gaming industry were distributed to casino patrons as part of the Vancouver model money laundering typology. While these funds were genuinely gambled and often lost, their acceptance facilitated the laundering of this illicit cash by enabling criminal organizations to dispose of it and be repaid in other forms in other jurisdictions, thereby transferring the funds to another part of the world, converting them into a different form, and obscuring their illicit origins.

Other Money Laundering Typologies

Based on the evidence before me, I am satisfied that the Vancouver model money laundering typology described above was the only typology of significant concern in the province's gaming industry. Other money laundering typologies, including refining and the exchange of cash for cheques with minimal or no play, were discussed in the Commission's hearings and are described below.[72] While there is some evidence of occasional activity indicative of refining, the evidence does not support that this was a significant issue for the industry at any time. With respect to the exchange of cash for cheques, the record before me is sufficient to allow for a positive conclusion that this type of activity was *not* occurring at a significant level during any relevant time in this province's casinos.

Refining

Refining refers to a method of money laundering in which patrons buy-in at a casino using small bills and subsequently cash out for larger bills.[73] While this typology does not convert cash into a different type of asset or medium of exchange, it advances the objectives of those intent on laundering illicit funds in two ways. First, it converts small denominations of currency, typically $20 bills, which, as discussed above, are often viewed with particular suspicion, into larger denominations less likely to attract the same level of scrutiny. Second, it reduces the total, literal volume and weight of cash in the possession of the patron by exchanging a large number of low-value bills for a much smaller number of high-value bills. The total number and weight of $100 bills is

72 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 52–53, 68–71; Exhibit 78, Beeksma #1, paras 64, 89; Exhibit 4, Overview Report: Financial Action Task Force, Appendix O, APG & FATF, *FATF Report: Vulnerabilities of Casinos and Gaming Sector* (Paris: 2009) [*FATF Gaming Report*], pp 1234–35 and 1239–42; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 100–1, 104; Exhibit 490, Kroeker #1, exhibit 1.

73 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 52–53, 68–71; Exhibit 78, Beeksma #1, paras 64, 89; Evidence of R. Alderson, Transcript, September 9, 2021, pp 17–18; Exhibit 781, Affidavit #1 of Anna Fitzgerald, made on March 3, 2021 [Fitzgerald #1], exhibit 6; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 100–1, 104.

one-fifth that of an equivalent value of $20 bills, meaning that the conversion of $20 bills into $100 bills results in a much more manageable mass of currency that is far easier to transport or conceal than in its original form.[74]

There is some evidence of isolated incidents of activity consistent with refining in the evidence before me. These include activities documented in a BCLC security incident report that took place in March 2000;[75] two related incidents that took place at the River Rock in 2012, leading to intervention by Ross Alderson, then a casino investigator stationed at the River Rock;[76] a 2014 incident documented by Mr. Beeksma;[77] and an incident on December 30, 2014, documented in emails between BCLC and a service provider.[78] References to this typology are also found in at least four Gaming Policy and Enforcement Branch audits of Lower Mainland casinos.[79] Each of these is described briefly below:

The March 2000 security incident report appears to describe a patron converting US dollars in small denominations into larger Canadian bills at Vancouver's Royal Diamond Casino:[80]

> [The patron] attended at the Royal Diamond Casino and attempted to exchange $11,600.00 US dollars into Canadian currency. The casino staff were certainly suspicious. She was able to convince the casino manager that she did intend to gamble with the money if exchanged, so they allowed her to exchange $3,000 US dollars. She then went to the concession area of the casino, had something to eat, and then said she was going to go and meet a friend at another casino. She left without gambling any of the exchanged money. The $11,600 US dollars that she produced was comprised of a mixture of large and small bills. Of course she asked to exchange the smaller bills first which they did for her.

The incidents that took place at the River Rock in 2012 were described by BCLC investigator Stone Lee as follows in his affidavit:[81]

74 Evidence of R. Alderson, Transcript, September 9, 2021, pp 17–18; Exhibit 781, Fitzgerald #1, exhibit 6; Exhibit 4, Appendix O, *FATF Gaming Report*, pp 1239–42; Exhibit 490, Kroeker #1, exhibit 1.

75 Exhibit 503, Overview Report: 1998–2001 BCLC Security Incident Reports Related to Loan Sharking, Money Laundering and Suspicious Transactions in British Columbia Casinos [OR: BCLC AML Security Reports 1998-2001], Appendix D, BCLC Security Incident Report bearing file number 00 0563 dated March 22, 2000.

76 Exhibit 87, S. Lee #1, para 36; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 51–53; Evidence of S. Lee, Transcript, October 27, 2020, p 25; Exhibit 78, Beeksma #1, para 64 and exhibits H, I, J; Evidence of R. Alderson, Transcript, September 9, 2021, pp 17–18.

77 Exhibit 79, Beeksma #2, p 16, exhibit 2; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 68–71.

78 Exhibit 129, Email from John Karlovcec to Robert Kroeker, re Large Cash Buy-ins (January 8, 2015); Evidence of J. Karlovcec, Transcript, October 30, 2020, p 53–54, 153–54.

79 Exhibit 781, Fitzgerald #1, exhibits 6, 26, 36, 38.

80 Exhibit 503, OR: BCLC AML Security Reports 1998–2001, Appendix D, BCLC Security Incident Report bearing file number 00 0563 dated March 22, 2000.

81 Exhibit 87, S. Lee #1, para 36.

> I recall Mr. Alderson investigating and interviewing a patron beginning in March 2012, who was buying in for up to $100,000 with $20s, hardly playing, and then cashing out and leaving. On or about April 4, 2012, this patron returned to River Rock, bought in for approximately $100,000 with $20s and wanted to leave after 30 minutes of play. Mr. Alderson instructed Great Canadian staff to pay him out in $20s instead of a higher denomination.

In their evidence, both Mr. Alderson and Mr. Beeksma, who was also stationed at the River Rock at that time, made clear that in the first incident referred to in Mr. Lee's evidence above, the patron was paid out in $100 bills despite, as indicated, having played minimally after buying in with $20 bills.[82] The purpose of Mr. Alderson's intervention on the second occasion was to ensure that the patron was not paid out in $100 bills a second time.[83]

The third occurrence was discussed in Mr. Beeksma's evidence. He described observing a similar incident, also at the River Rock, that took place in 2014.[84] He summarized his observations as follows in a BCLC Incident File report:[85]

> On the evening of 2014-FEB-09 a male patron … produced $200K in CDN $20 bills for buying in at River [Rock's] VIP Salon. After receiving the chips [the patron] put approx. $180K of them into his jacket pockets then gambled for approx 2 hours with the remaining $20K before redeeming the full amount receiving cash ($100 bills) to complete the disbursement. Although [the patron]'s reasoning for doing this is not known, changing his $20 bills to $100 bills after minimal play is a casino indicator of money laundering.

The fourth incident, which took place on December 30, 2014, was documented in an exchange of emails between BCLC and Great Canadian staff.[86] This incident involved a patron buying-in for an unspecified amount in $20 bills, but receiving $100 bills when cashing out, despite making only a single wager.

Finally, alongside these specific incidents, at least four GPEB audits completed between 2014 and 2016 refer to patrons buying-in at the River Rock Casino using $20 bills and being paid out with $100 bills.[87] These audits generally do not identify specific transactions and are primarily based on analysis of the transfer of cash between high-limit cash cages and the casino vault. As such, it is not possible – and it does not appear that any effort was made in these audits – to understand the pattern of play that patrons engaged in before they were provided with larger denomination bills

82 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 52–53; Evidence of R. Alderson, Transcript, September 9, 2021, pp 17–19; Exhibit 78, Beeksma #1, exhibits H, I, J.

83 Evidence of R. Alderson, Transcript, September 9, 2021, pp 18–19.

84 Exhibit 79, Beeksma #2, exhibit 2; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 68–71.

85 Exhibit 79, Beeksma #2, exhibit 2.

86 Exhibit 129, Email from John Karlovcec to Robert Kroeker, re large Cash Buy-ins (January 8, 2015); Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 53–54 and 153–54.

87 Exhibit 781, Fitzgerald #1, exhibits 6, 26, 36, 38.

upon cashing out. Accordingly, while these audits offer some indication of possible refining activity, caution should be exercised in drawing firm conclusions that the activity referred to necessarily amounted to money laundering.

Without knowing the intentions of those conducting any of the transactions referred to above, it is impossible to know with certainty whether the actions of the patrons involved were motivated by an intention to launder money. However, the first four incidents, at least, involve highly suspicious activity that gives rise to plausible concern for money laundering. Given these occurrences – and the sheer volume of cash that cycled through major Lower Mainland casinos in the years leading up to 2018 – it is plausible that incidents of refining have occurred in this province's casinos. However, in my view, the evidence before me does not support a conclusion that this was occurring with any regularity or in any systematic way.

I am satisfied that refining is not occurring and has likely never occurred at a substantial rate in this province's casinos and is not a significant issue in the gaming industry in British Columbia. While the incidents described above are concerning, they represent a small number of transactions over the span of 14 years. One of these was stopped as it occurred, and all were identified as suspicious by BCLC and/or service provider staff. It is likely that these incidents are not the entirety of all such transactions that have occurred in the nearly five decades that casino-style gaming has been offered in this province, but I accept that refining is not a frequent occurrence.

I am satisfied as well that the absence of significant refining activity in British Columbia casinos is the result of effective measures to prevent it, implemented by BCLC and executed by service providers. These include, in particular, requirements that patrons who do not engage in "reasonable play" be paid out in the same denominations they used to buy-in.[88] It appears that this measure – alongside the sensitivity of BCLC investigators to the risk of refining, evidenced by the reports referred to above – is having its intended effect of preventing this money laundering typology in this province's casinos, and I encourage BCLC to continue these efforts.

Exchange of Cash for Cheques

Like refining, the "exchange of cash for cheques" money laundering typology also involves the use of casinos to replace illicit cash with a less suspicious, more convenient medium of exchange. In this typology, however, those intent on laundering money are not merely seeking to trade small bills for large, but to exchange cash for cheques, sparing themselves entirely from the scrutiny and inconvenience arising from cash lacking legitimate origins. Patrons seeking to employ this typology, like those intent on refining, will buy-in using cash generated through crime and engage in minimal play before cashing out. Instead of obtaining higher denomination bills, however, the patron will seek the return of their funds in the form

88 Ibid, exhibit 38; Evidence of R. Kroeker, Transcript, January 25, 2021, p 104.

of a cheque. This typology shares with refining the benefit of transforming bulky cash into a less suspicious form that is easier to transport and conceal. It also has the added benefit of converting cash into a form that may also have the appearance of being derived from casino winnings, enabling the incorporation of these funds into the legitimate financial system.[89]

Unlike refining, there is no compelling evidence in the record before me of *any* incidents suggesting the successful employment of this typology in British Columbia's casinos. To the contrary, there is positive evidence that the controls put in place by BCLC and executed by service providers have successfully prevented its occurrence. As described in detail in Chapter 12, concerns that this typology was occurring in the province's casinos were raised in media reporting in September 2017, a day after the commencement of Dr. German's review.[90] Mr. Kroeker described the allegations made in this reporting in his affidavit as follows:[91]

> On Friday September 29, 2017, media reports alleged customers had been attending casinos, buying-in with large amounts of cash, engaging in little to no play, and cashing out and receiving a cheque.

In response, BCLC quickly engaged an external consulting firm to examine every cheque issued by the River Rock Casino over a three-year period.[92] While this audit identified irregularities in 49 transactions involving 28 patrons, I am satisfied that its results demonstrate that money laundering using this typology simply did not occur during the period covered by the audit in any systematic way or at any significant level.[93] A similar audit of cheques issued by the Grand Villa Casino was subsequently conducted, identifying irregularities in the issuance of only three cheques. Like the audit of River Rock cheques, this audit supports the conclusion that money laundering did not occur through this typology at the Grand Villa Casino during the time period examined.[94]

As is the case with refining, I accept that the controls implemented by BCLC and executed by service providers should be credited with successfully preventing this money laundering typology. Of particular significance, these controls include the restriction of funds issued through "verified winnings" cheques only to the portion of a patron's cash-out that represents winnings, with any initial buy-in made in cash returned in the form of cash, and restrictions on "convenience" or "return-of-funds"

89 Exhibit 4, Appendix O, *FATF Gaming Report*, pp 1234–35; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 100–1; Exhibit 490, Kroeker #1, exhibit 1.

90 Exhibit 490, Kroeker #1, para 186; Evidence of T. Doyle, Transcript, February 10, 2021, pp 47–49; Exhibit 505, Lightbody #1, para 227; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 149–51 and Transcript, January 26, 2021, pp 158–59.

91 Exhibit 490, Kroeker #1, para 186.

92 Exhibit 490, Kroeker #1, paras 187–90 and exhibit 96; Evidence of R. Kroeker, Transcript, January 25, 2021, p 190; Exhibit 484, Affidavit #2 of Kevin deBruyckere, sworn on October 23, 2020 [deBruyckere #2], exhibit 14.

93 Exhibit 484, deBruyckere #2, exhibit 14.

94 Exhibit 490, Kroeker #1, para 191; Exhibit 484, deBruyckere #2, exhibit 17.

cheques that impose strict limits on the value of cheques issued to return cash buy-ins that do not represent winnings.[95] The apparent success of these measures in preventing this typology at the River Rock and Grand Villa casinos, despite the rate at which suspicious cash was entering the province's casinos at the time, is persuasive evidence that these measures are highly effective. Presuming they are properly implemented, these measures have almost certainly ensured that the results of these two audits are representative of the gaming industry as a whole.

In light of this success, it is necessary, in my view, to note that on multiple occasions in recent years, BCLC has proposed eliminating limits on the value of convenience cheques.[96] I understand the benefit these proposals may have in ensuring that funds issued by casinos can be traced and in further reducing the use of cash in the gaming industry, including by discouraging patrons from buying-in with cash previously paid out to them by a casino. In my view, however, even as measures such as the BCLC's cash conditions program and the implementation of Dr. German's source-of-funds recommendation have increased confidence that the cash accepted in the province's casinos is legitimate in its origins, limits on the value of convenience cheques remain an important safeguard against this form of money laundering and I recommend that those limits remain in place as the industry continues to transition away from cash.

Recommendation 6: I recommend that current limits on the amounts that casinos are able to pay out to patrons in the form of convenience cheques remain in place.

Conclusion

While the gaming industry's successes in preventing these two typologies pale in comparison to the scale of the money laundering that occurred through the Vancouver model, they should not be overlooked. That the industry was able to successfully prevent these money laundering typologies is positive and went some length toward ensuring that the money laundering process could not be completed, in its entirety, within the four walls of a British Columbia casino. More significantly, these successes illustrate that the gaming industry is – and has long been – capable of taking effective action to prevent money laundering where motivated to do so. While this would suggest that the failure to prevent the rise of the Vancouver model was not the result of a lack of capacity, it offers reason for optimism that the industry can effectively prevent money laundering where it has the will to do so.

95 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 145–46; Evidence of T. Towns, Transcript, February 1, 2021, pp 32; Exhibit 484, deBruyckere #2, para 9; Exhibit 76, Overview Report: BCLC Standards, Policies, Procedures and Operational Services Agreements, pp 187–89.

96 Exhibit 490, Kroeker #1, paras 139–142, 145–53 and exhibits 60, 63, 66; Exhibit 522, Desmarais #1, paras 95–96 and exhibits 70, 73; Evidence of R. Kroeker, Transcript, January 26, 2021, p 199.

The Extent of Money Laundering in the Gaming Industry

In light of the conclusion above that money laundering did occur in British Columbia's gaming industry and having discussed the predominant typology by which it took place, the Commission's Terms of Reference require that I consider the extent of this activity. The discussion that follows does so in terms of the quantity of illicit funds laundered through the gaming industry, the duration of time over which it took place, and the geographical region in which it occurred. While it is not possible to determine with precision the exact amount of money laundered through this province's gaming industry, based on the record before me, it is abundantly clear that hundreds of millions of dollars of criminal proceeds were accepted in British Columbia casinos over a sustained period spanning at least a decade, predominantly in the Lower Mainland.

Quantity of Criminal Proceeds Laundered Through BC Casinos

It is not possible to determine the exact dollar value of proceeds of crime laundered through this province's casinos using the Vancouver model typology described above. While the Commission has access to relatively precise data regarding the number and value of suspicious transactions reported to FINTRAC by BCLC and in reports related to suspicious cash transactions submitted to GPEB, pursuant to section 86 of the *Gaming Control Act*, SBC 2002, c 14, this data cannot be equated with the number and value of transactions amounting to money laundering. As was made clear repeatedly in the course of the Commission's hearings, it is not the case that every suspicious transaction necessarily amounts to money laundering. There are a broad range of indicators that can result in a transaction being reported to FINTRAC, all of which may be indicators of illicit activity, but none of which are definitive proof. On the other side of the ledger, the evidence before me also makes clear that even highly suspicious transactions were sometimes not reported as such.[97] Accordingly, there is good reason to believe that FINTRAC and section 86 reporting data may include transactions that were not connected to money laundering, while also omitting some that were.

This inability to arrive at a precise valuation of dollars laundered through the province's casinos does not mean that the evidence before the Commission offers no insight into the scale at which illicit funds were accepted in British Columbia gaming facilities. Rather, the evidence available paints a compelling picture of the extent of this problem, both in the aggregate and at specific time periods and is sufficient to allow for the conclusion that hundreds of millions of dollars have been laundered through this province's gaming industry. The evidence that supports this conclusion includes suspicious transaction reporting data, evidence of the impact of measures intended to reduce suspicious transactions and, ultimately, money laundering and evidence of suspicious activity occurring during specific time periods.

97 Exhibit 75, Overview Report: 2016 BCLC Voluntary Self-Declaration of Non-Compliance; Exhibit 166, Hiller #1, paras 60–66; Evidence of D. Dickson, Transcript, January 22, 2021, p 19.

Suspicious Transaction Reporting

While I accept that it is not a precise measure of the amount of money laundered through the gaming industry, I am nevertheless satisfied that suspicious transaction reporting to FINTRAC and to GPEB is a useful indicator in identifying the extent of money laundering in the province's casinos. This is particularly so when considered alongside the qualitative evidence discussed previously in this report regarding the nature of these transactions and the appearance of the cash used to conduct them.[98] This evidence offers insight into the nature of the transactions being reported as suspicious during the relevant time period and provides support for the conclusion that a significant portion of the suspicious transactions identified at this time were conducted using the proceeds of crime.

The suspicious transaction reporting data relevant to determining the extent of money laundering in the gaming industry comes primarily from two sources. Prior to the termination of Mr. Vander Graaf in 2014, the GPEB investigation division regularly produced "reports of findings" detailing the number and value of suspicious transactions reported to the Branch pursuant to section 86 of the *Gaming Control Act*. While the production of these reports appears to have ceased in 2014, BCLC's FINTRAC reporting data for suspicious transactions is available for 2014 and the years that followed. BCLC's FINTRAC reporting data does not track precisely the same information as the section 86 suspicious cash transaction reporting data, but both offer a clear indication of the frequency of suspicious transactions and the total value of suspicious funds accepted by the gaming industry at relevant times.

GPEB Reports of Findings

The earliest GPEB report of findings detailing suspicious cash transaction reporting data is dated November 19, 2012,[99] referred to above. Table 13.1 indicates the number of suspicious currency transaction (SCT) reports received by the Branch annually between 2007 and 2011, with partial data for 2012:

Table 13.1: SCT Reports Received by GPEB, 2007–2012

Calendar Year	# of Section 86 SCT Reports
2007	59
2008	213
2009	211
2010	295
2011	676
2012 (first nine months)	794

Source: Exhibit 181, Vander Graaf #1, exhibit G

98 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 56, 114; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 4, 6, 10; Evidence of D. Dickson, Transcript, January 22, 2021, pp 6–7; Evidence of J. Schalk, Transcript, January 22, 2021, p 113; Evidence of R. Barber, Transcript, November 3, 2020, pp 14–15; Exhibit 144, Ackles #3, para 19; Exhibit 145, Barber #1, paras 29–30; Exhibit 181, Vander Graaf #1, para 54; Exhibit 166, Hiller #1, para 58.

99 Exhibit 181, Vander Graaf #1, exhibit G.

A subsequent report from October 2013 offered the following data:[100]

Table 13.2: Value of Reported SCTs, Various Periods, 2010–2013

Year	# of Section 86 SCT Reports
2008–09	103
2009–10	117
2010–11	459
2011–12	861
2012–13	1,062
2013 (first nine months)	840

Source: Exhibit 181, Vander Graaf #1, exhibit O.

While these first two reports do not provide comprehensive data regarding the cumulative value of reported transactions in each year, the second identifies the value of reported suspicious currency transactions for two one-year periods and one nine-month period. Table 13.3 also indicates the percentage of the suspicious cash accepted during each time period comprised of $20 bills:[101]

Table 13.3: Percentage of SCTs Comprised of $20 Bills, 2011–2013

Time Period	Value of SCTs	% Comprised of $20 Bills
July 1, 2010–June 30, 2011 (one year)	$39,572,313	75%
January 1, 2012–December 31, 2012 (one year)	$87,435,297	68%
January 1, 2013–September 30, 2013 (nine months)	$71,196,398	67%

Source: Exhibit 181, Vander Graaf #1, exhibit O.

The final such report, prepared shortly before Mr. Vander Graaf and Mr. Schalk were terminated in December 2014,[102] was produced in October 2014. Table 13.4 offers the following updated data regarding suspicious currency transactions reported in 2012–13 and 2013–14, as well as partial data for 2014–15:[103]

100 Ibid, exhibit O.

101 Ibid.

102 Exhibit 145, Barber #1 para 88; Exhibit 181, Vander Graaf #1, exhibit QQ.

103 Exhibit 181, Vander Graaf #1, exhibit Q.

Table 13.4: SCT Reports Received by GPEB, 2012–2015

Year	# of Section 86 SCT Reports	Total Value of SCTs
2012–13	1,059	$82,369,077
2013–14	1,382	$118,693,215
2014–15 (first six months)	876	$92,891,065

Source: Exhibit 181, Vander Graaf #1, exhibit Q.

BCLC Suspicious Transaction and Large Cash Transaction Report Data

While GPEB does not appear to have continued producing reports of this sort following the departure of Mr. Vander Graaf and Mr. Schalk, the cessation of the production of these reports coincides with the initial availability of BCLC suspicious transaction reporting data.[104] Table 13.5 indicates the number of suspicious transaction reports (STRs) submitted to FINTRAC by BCLC between 2014 and 2019 and the value of the transactions represented in those reports:[105]

Table 13.5: STRs Submitted to FINTRAC by BCLC, 2014–2019

Year	Total # of STRs	# of STRs $50,001–$100,000	# of STRs over $100,000	Total Value of STRs
2014	1,631	493	595	$195,282,302
2015	1,737	524	523	$183,811,853
2016	1,649	257	161	$79,458,118
2017	1,045	158	76	$47,128,983
2018	290	6	3	$5,520,550
2019	222	3	20	$53,879,973*

Source: Exhibit 482, Cuglietta #1, exhibit A; Exhibit 784, Cuglietta #2, exhibit A.

**Note*: As indicated in Chapter 12, this increase in the value of transactions reported as suspicious in 2019 appears to be the result of an anomaly in reporting data for the months of October and November of 2019. With the exception of those two months, the STR data for 2019 is generally consistent with the data for 2018. This anomaly is not reflected in large cash transaction reporting data for these months, indicating that this increase in the number and value of transactions reported as suspicious was not connected to cash transactions.

104 Exhibit 482, Cuglietta #1; Exhibit 784, Cuglietta #2.

105 Exhibit 482, Cuglietta #1, exhibit A; Exhibit 784, Cuglietta #2, exhibit A.

I note that, while the data set out above drawn from GPEB reports of findings specifically identify suspicious cash transactions, this is not the case with BCLC FINTRAC reporting data, which also includes non-cash suspicious transactions, as well as e-gaming and "external request" suspicious transaction reports.[106]

Data obtained from BCLC also indicates the extent of large cash transactions (LCTs) – those of $10,000 or more – over time.[107] While large cash transactions, most of which are not identified as suspicious by service provider and/or BCLC staff, should not be equated to proceeds of crime, Table 13.6 offers an indication of the volume of cash accepted by the province's casinos in large transactions between 2012 and 2019:

Table 13.6: LCTs Accepted by BC Casinos, 2012–2019

Year	Total # of LCT Reports	# of LCT Reports $50,001–$100,000	# of LCT Reports over $100,000	Total Value of LCT Reports
2012	21,525	1,240	567	$492.3 M
2013	27,449	1,528	1,084	$600.6 M
2014	34,720	2,402	1,881	$1,184.6 M
2015	35,656	2,115	1,462	$968.1 M
2016	37,596	1,109	662	$739.6 M
2017	36,619	452	139	$514.2 M
2018	13,511	59	10	$174 M
2019	9,969	43	13	$130.2 M

Source: Exhibit 482, Cuglietta #1, exhibit A.

The suspicious transaction report data discussed above (as distinct from the large cash transaction report data) reveal the substantial quantity of suspicious funds accepted by this province's casinos over the course of a decade. In the four-year span between 2014 and 2017 alone, even at a time when BCLC had begun to implement measures to reduce suspicious transactions, BCLC reported more than half a billion dollars in suspicious transactions. While it is not the case that all of this money necessarily represents the proceeds of crime, given the evidence before me of the nature of transactions taking place in the province's casinos at this time, I am satisfied that a substantial portion of it did and that this data supports the conclusion that hundreds of millions of dollars in illicit funds were laundered through this province's gaming industry during the time period covered by the data set out above.

106 Exhibit 482, Cuglietta #1, exhibit A.

107 Exhibit 482, Cuglietta #1, exhibit A.

Effect of Measures Intended to Reduce Suspicious Cash

As addressed above in the discussion of the evidence supportive of the conclusion that money laundering took place in the gaming industry, the measures implemented beginning in 2015 to reduce suspicious transactions in the gaming industry had an impact on the volume of suspicious cash accepted in the province's casinos. Between 2014 – the year in which the first patron was placed on cash conditions and the year prior to the formalization of BCLC's cash conditions program – and 2018 – the year in which Dr. German's source of funds recommendation was implemented (as modified by BCLC) – the value of suspicious transactions reported by BCLC fell from just over $195 million to just over $5 million.[108] Over the same time period, the value of reported large cash transactions fell from nearly $1.2 billion to just over $174 million.[109] As discussed in Chapter 12, these declines in large and suspicious transactions were also correlated with declines in revenue for the River Rock Casino and for BCLC table games revenue overall.[110]

It is unlikely that every dollar of this reduction is attributable entirely to these measures. However, that the rate at which suspicious cash was entering the province's gaming industry dropped so dramatically in just a few years, following a period of sustained growth as reflected in GPEB reports of findings, at precisely the time that measures intended to have exactly this effect were implemented, is a strong indicator that a substantial amount of the cash was illicit. In my view, it is clear that a significant reason for the disappearance of such a large quantity of suspicious funds from the industry following the implementation of measures requiring proof that it had a legitimate source is that no such proof of legitimacy existed. As such, this reduction in suspicious transactions supports that a substantial portion of cash accepted in these transactions was illicit in origin.

Suspicious Transactions During Discrete Time Periods

The aggregate data set out above provides a valuable overview of the number of suspicious transactions that took place in the gaming industry and the volume of suspicious funds accepted as part of those transactions. While these data may offer the best indication of the overall scale of the money laundering crisis that emerged in the industry, the size of some of the figures set out above is so great that it can be difficult to discern their practical meaning. Accordingly, in order to assist in conveying the extent of the money laundering that took place in the gaming industry over this time period, it is useful, in my view, to also examine this activity at a more readily comprehensible scale.

In order to do so, I set out below four examples of suspicious activity that took place within relatively short time periods. The first two examples involve the activities of individual patrons, one in the course of a single night, the other in the span of a

108 Exhibit 784, Cuglietta #2, exhibit A.

109 Exhibit 482, Cuglietta #1, exhibit A.

110 Exhibit 785, Affidavit #1 of Richard Block, affirmed on March 9, 2021, exhibit A.

month. The third relates to the suspicious activity that took place in the span of five weeks at a single casino, and the fourth provides broad data related to suspicious transactions in Lower Mainland casinos but limited to activity occurring within a single month.

September 2010

As discussed in Chapter 10, on November 24, 2010, Derek Dickson, then GPEB's director of casino investigations for the Lower Mainland, wrote to Mr. Friesen, then BCLC's manager of casino security and surveillance, to express concern about the activities of Patron C at the Starlight Casino during the month of September 2010.[111] In his letter, Mr. Dickson set out in detail the buy-ins made by Patron C, beginning on August 31, 2010, and ending on September 29, 2010. In total, Mr. Dickson listed 21 transactions including cash buy-ins ranging from $43,000 to $250,020. In total, during this time period, Patron C bought-in for $3,111,040 in cash, including $2,657,940 in $20 bills, plus additional buy-ins using casino chips. Patron C's cash buy-ins were packaged in shopping bags, which he was sometimes seen retrieving from the trunks of vehicles not belonging to him.[112] In obtaining his cash, often in the early morning hours, Patron C was seen associating with an individual previously suspected of cash facilitation.[113] The letter identified that both GPEB and the RCMP were very concerned about potential money laundering and Patron C's activities in BC casinos.

In a response to this letter,[114] John Karlovcec, then BCLC's assistant manager of casino security and surveillance, writing with the approval of both Mr. Friesen and Terry Towns,[115] then BCLC's vice-president of corporate security and compliance, indicated that the BC Lottery Corporation had conducted a review of Patron C's play during this period and concluded that he had bought-in for a total of $3,681,320, of which he had lost $3,338,740. Mr. Karlovcec concludes, from this data and other information about Patron C and his activities, that Patron C "did not meet the criteria that would indicate" that he was actively laundering money through his activity in the Starlight Casino. While BCLC personnel may have taken some comfort in the fact that Patron C lost nearly all of the funds he used to gamble during this month, in my view, this should have been cause for alarm, as it means that Patron C was not recycling the same cash to make these buy-ins. Rather, virtually every transaction conducted by Patron C was made using newly obtained cash. While the evidence does not indicate the source of Patron C's funds, it is difficult to fathom a legitimate source from which one could, and reasonably would, obtain more than $3 million, predominantly in $20 bills, in the span of one month. This example illustrates the scale of suspicious activity occurring even during the relatively early stages of the emerging crisis.

111 Exhibit 110, Letter from Derek Dickson re Money Laundering in Casinos (November 24, 2010).

112 Exhibit 507, Sturko #1, Exhibit E.

113 Ibid.

114 Exhibit 111, Letter from John Karlovcec re Money Laundering in BC Casinos (December 24, 2010).

115 Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 110–11.

September 24 and 25, 2014[116]

Patron A attended the River Rock VIP room on the evening of September 24, 2014, remaining until the early morning hours of September 25. Just before 11:00 p.m., Patron A exhausted the chips he had obtained from an initial buy-in of $50,000 made using $100 bills. He made a phone call, exited the casino, and entered a black Mercedes SUV waiting in the River Rock parking lot. The SUV drove a short distance to the casino entrance, where Patron A exited the vehicle carrying a black suitcase and a brown bag. Patron A carried the suitcase and the bag to a cash cage, where he emptied their contents, $500,040 in $20 bills bundled with elastic bands and packaged in silver plastic bags. Patron A returned to the gaming tables and resumed play as he began to receive his chips.

Just after 1:00 a.m. on September 25, Patron A had again exhausted all or nearly all of his chips and began to use his phone. A few minutes later, Patron A left the casino and entered a Range Rover along with two other individuals who had been waiting near the vehicle. They drove to the front entrance of the casino. Patron A exited the vehicle and retrieved another suitcase from the rear of the vehicle. He returned to the cash cage. As before, he emptied the contents of the suitcase – $500,030 entirely in $20 bills, with the exception of $190, which was in $10 bills. Again, the cash was bundled with elastic bands and packaged in silver plastic bags. Patron A returned to the gaming tables and resumed his play as he began to receive his chips.

In the span of just over two hours, Patron A bought-in for more than $1 million, almost entirely in $20 bills wrapped in elastic bands and dropped off in the middle of the night. While the evidence before me does not definitively prove the source of these funds, it is difficult to imagine a plausible legitimate explanation as to their origin. These transactions are not a representative example of the activity of most VIP patrons on most evenings at this time. Rather, it appears that Patron A's combined buy-ins were likely the largest transaction ever to have taken place in a British Columbia casino. However, the enormous amount of cash accepted from Patron A on this evening, apparently without hesitation or question on the part of casino staff, offers some indication of the rate at which suspicious cash could be accepted by British Columbia casinos. That Patron A's buy-ins represent less than 1 percent of the total suspicious funds accepted in the gaming industry and reported by BCLC to FINTRAC in 2014 helps to illustrate the overall scale of suspicious activity in the gaming industry at this time.

River Rock Casino: January 13–February 17, 2012

Some sense of how the activities of VIP patrons like Patron A and Patron C fit into the broader context of the suspicious activity happening around them during a discrete period can be found in a GPEB investigation division report of findings dated February 22, 2012.[117] This report details the following information captured in section 86 reports made to the Branch regarding activity that took place at the River Rock during the five-week period between January 13 and February 17, 2012:

116 Exhibit 181, Vander Graaf #1, exhibit P.

117 Ibid, exhibit M.

- Number of Section 86 Suspicious Cash Transaction reports received: **85**
- Dollar value of suspicious buy-ins in $20 denomination: **$6,677,620**
- Dollar value of suspicious buy-ins in $50 denomination: **$251,200**
- Dollar value of suspicious buy-ins in $100 denomination: **$948,400**
- Total dollar value of all suspicious buy-ins: **$8,504,060**
- Number of patrons involved in multiple suspicious cash buy-ins: **14**
- Total number of suspicious cash transactions reports generated by patrons with multiple suspicious buy-ins: **74**
- Highest number of suspicious buy-ins by a single patron: **19**
- Total dollar value of suspicious buy-ins by the patron with the highest number of suspicious buy-ins: **$1,435,480** [Emphasis in original.]

While perhaps not reflective of the kind of prolific individual activity detailed in the two examples above, this data offers a compelling snapshot into the extent of suspicious activity taking place at the River Rock during this time period. In the span of just 36 days, the River Rock reported 85 suspicious cash transactions with a total value of just over $8.5 million, meaning that the average value of these transactions was just over $100,000. It reveals as well that a single patron was responsible for 19 of these transactions, with a value of more than $1.4 million. Like the activities of Patron A and Patron C described above, this report suggests that individual patrons were bringing substantial quantities of cash, much of it in $20 bills, into the casino over the course of a very short duration of time, illustrating on a smaller scale the kind of activity captured in the annual reporting data discussed above.

July 2015

As discussed earlier in this Report, and repeatedly in the evidence before the Commission, a spike in suspicious transactions in casinos was observed in July 2015.[118] This spike was captured in a spreadsheet prepared by GPEB investigators Robert Barber and Ken Ackles,[119] which played a critical role in persuading the leadership of the Branch and responsible government officials of the need for urgent government action to respond to the suspicious activity taking place in the gaming industry.[120]

118 Evidence of R. Barber, Transcript, November 3, 2020, pp 21–22; Evidence of C. Clark, Transcript, April 20, 2021, p 34; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 45–46; Evidence of J. Mazure, Transcript, February 5, 2021, pp 113–14, 116–17, 224–25.

119 Exhibit 144, Ackles #3, paras 23–24, exhibit D; Exhibit 145, Barber #1, paras 92–93, exhibit F; Evidence of K. Ackles, Transcript, November 2, 2020, pp 41–42; Evidence of R. Barber, Transcript, November 3, 2020, pp 21–22 and 153; Exhibit 922, Affidavit no. 1 of Cheryl Wenezenki-Yolland, sworn on April 8, 2021 [Wenezenki-Yolland #1], paras 103–8.

120 Exhibit 587, Affidavit #1 of Joseph Emile Leonard Meilleur, made on February 9, 2021, para 87; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 72–73; Exhibit 541, Affidavit #1 of John Mazure, sworn on February 4, 2021, paras 150–51; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 46–47; Exhibit 922, Wenezenki-Yolland #1, paras 103–8; Evidence of M. de Jong, Transcript, April 23, 2021, pp 68–69. Exhibit 144, Affidavit #3 of Ken Ackles made on October 28, 2020, paras 23–24, Exhibit D; Exhibit 145, Barber #1, paras 92–95, exhibit F.

While the role this spreadsheet played in motivating a response to this crisis is important, the scale of the activity documented in the spreadsheet itself should not be overlooked. The spreadsheet identified and provided basic information about all suspicious cash transactions of $50,000 or more that took place at Lower Mainland casinos during this month (it also included two transactions with values below $50,000 in the amounts of $49,980 and $48,770).[121] It included more than 130 transactions with a total value of more than $20 million, including $14 million in $20 bills,[122] and individual values ranging up to $770,860. Table 13.7 identifies the number of transactions of $100,000 or more included in the spreadsheet, categorizing them by value in $100,000 increments:

Table 13.7: SCTs of more than $100,000 at Lower Mainland Casinos

Value Range	# of Transactions
$100,000–$199,999	44
$200,000–$299,999	18
$300,000–$399,999	11
$400,000–$499,999	3
$500,000–$599,999	2
$600,000 - $699,999	2
$700,000 +	1

Source: Exhibit 144, Ackles #3, exhibit D; Exhibit 145, Barber #1, exhibit F.

The activity detailed in this spreadsheet represents the volume of suspicious activity occurring at casinos at the peak of the money laundering crisis in British Columbia's gaming industry. It reveals that, during this month, an average of four times each day at a casino in the Lower Mainland, a patron would buy-in with $50,000 or more in cash, much of which was in $20 bills. Of these four average daily transactions, more than two would consist of $100,000 or more. Like those above, this example is not broadly representative of the scale of activity that took place over the duration of the time period at issue but illustrates the extent of the suspicious activity occurring in the province's casinos at its peak.

121 Exhibit 144, Ackles #3, paras 23–24 and exhibit D; Exhibit 145, Barber #1, paras 92–93 and exhibit F; Evidence of K. Ackles, Transcript, November 2, 2020, pp 41–47; Evidence of R. Barber, Transcript, November 3, 2020, pp 21–22, 153.

122 Exhibit 144, Ackles #3, paras 23–24 and exhibit D; Exhibit 145, Barber #1, paras 92–93 and exhibit F; Evidence of K. Ackles, Transcript, November 2, 2020, pp 41–47; Evidence of R. Barber, Transcript, November 3, 2020, pp 21–22, 153.

When Did Money Laundering in BC's Gaming Industry Occur?

The evidence before me supports that money laundering was a significant issue for the gaming industry, at a minimum, from 2008 to 2018. Several witnesses identified a point in or around 2008[123] or slightly afterwards[124] as marking a significant increase in the volume of cash entering the province's casinos. Mr. Schalk and Mr. Vander Graaf both indicated that the GPEB investigation division developed a particular concern about money laundering in the industry at this time, due to perceived increases in suspicious activity.[125] Patrick Ennis, a long-time Great Canadian security and surveillance staff member, recalled a noticeable jump in the size of cash transactions connected to a specific increase in betting limits, which I found in Chapter 10 took place in 2008.[126] The evidence of Mr. Schalk, Mr. Vander Graaf, and Mr. Ennis in this regard is corroborated by the section 86 suspicious currency transaction reporting data set out above, which identifies a significant increase in the number of suspicious cash transaction reports from 59 reports in 2007 to 213 reports in 2008.[127]

While this marks the beginning of the money laundering crisis that would emerge in the industry over the next several years, peaking in or around 2015, I do not suggest that no money laundering took place in the industry prior to this time. As indicated above, suspicious cash transactions were being reported to GPEB, albeit at much lower levels, prior to this time, and there is evidence before the Commission of cash facilitation in the industry dating back to the 1990s.[128] While I cannot rule out the possibility that some of this activity was connected to money laundering, given the relatively low level of play prior to 2008, and the absence of evidence regarding the nature of the suspicious transactions and the source of the funds provided by cash facilitators at this time, I am unable to conclude with certainty that money laundering was a significant issue in the gaming industry prior to 2008.

I find that, following its emergence in 2008, money laundering in the gaming industry through the Vancouver model persisted as a significant issue for approximately a decade until 2018. The rate at which suspicious cash entered the province's casinos remained

123 Exhibit 181, Vander Graaf #1, para 35, exhibit G; Evidence of J. Schalk, Transcript, January 22, 2021, p 109; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 48, 51–52 and Transcript, November 13, 2020, p 39; Exhibit 530, Affidavit #1 of Patrick Ennis, made on January 22, 2021 [Ennis #1], para 15; Evidence of P. Ennis, Transcript, February 3, 2021, p 72 and Transcript, February 4, 2021, p 24.

124 Exhibit 517, Affidavit of Terry Towns, made on January 22, 2021, para 59; Exhibit 87, S. Lee #1, paras 24–29; Exhibit 507, Sturko #1, para 67; Exhibit 78, Beeksma #1, paras 45–50.

125 Exhibit 181, Vander Graaf #1, para 35; Evidence of J. Schalk, Transcript, January 22, 2021, p 109; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 48, 51–52, 165–66 and Transcript, November 13, 2020, p 39.

126 Exhibit 530, Ennis #1, para 15; Evidence of P. Ennis, Transcript, February 3, 2021, p 72; Evidence of P. Ennis, Transcript, February 4, 2021, p 24.

127 Exhibit 181, Vander Graaf #1, exhibit G.

128 Exhibit 87, S. Lee #1, paras 9–10; Evidence of S. Lee, Transcript, October 27, 2020, p 12; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 27–28; Evidence of P. Ennis, Transcript, February 3, 2021, pp 68–69; Exhibit 147, Affidavit #1 of Muriel Labine, affirmed on October 23, 2020, paras 6 and 10; Evidence of M. Labine, Transcript, November 3, 2020, pp 169-170; Exhibit 503, OR: BCLC AML Security Reports 1998-2001.

elevated through 2017, before finally declining to reasonable levels following the implementation of new measures in January 2018 in response to Dr. German's source-of-funds recommendation.[129] The significant rate at which suspicious funds continued to enter the industry in 2017, combined with the impact of these new measures the following year, suggests that illicit funds continued to infiltrate the gaming industry into 2017. Additional support for this conclusion is found in the short-lived decline in suspicious transactions that followed the nine arrests made by JIGIT, referred to previously in this chapter.[130] The correlation between the two events suggests that the arrests may have disrupted the supply of illicit funds available to casino patrons, providing some additional support for the conclusion that such funds continued to make their way into casinos into 2017.

Again, I am unable to state with certainty that money laundering in some form did *not* occur beyond the bounds of this timeframe. There is evidence of suspicious transactions occurring into 2018 and beyond, including cash transactions of thousands of dollars, often in small bills, and those in which patrons exhibited behaviour likely intended to avoid either the FINTRAC large cash transaction reporting threshold or the threshold for providing proof of the source of their funds.[131] By this point, however, the volume of suspicious cash entering the province's casinos and the size of the suspicious transactions that continued to occur were so diminished that it does not appear that money laundering through large cash transactions remained a significant issue in the gaming industry at this time.

Where Did Money Laundering Occur in BC's Gaming Industry?

The operation of the Vancouver model and by extension, money laundering in British Columbia's gaming industry was concentrated in the casinos of the Lower Mainland.[132] There is no evidence to suggest that money laundering through the Vancouver model typology or any other typology was a significant issue in casinos outside of this region during any time period examined by the Commission.

Among Lower Mainland casinos, the evidence before the Commission demonstrates that the largest volumes of suspicious cash were received at the River Rock Casino throughout this time period. In a February 2012 report of findings, the GPEB investigation division indicated that 40 percent of suspicious currency transaction reports submitted to the Branch, representing 50 percent of the value of those transactions, emanated from the River Rock.[133] Similarly, Mr. Barber gave evidence that

129 Exhibit 482, Cuglietta #1, exhibit A; Exhibit 784, Cuglietta #2, exhibit A.

130 Exhibit 148, Tottenham #1, para 197 and exhibit 108; Exhibit 490, Kroeker #1, para 175; Evidence of R. Kroeker, Transcript, January 25, 2021, p 136; Evidence of D. Tottenham, Transcript, November 5, 2020, pp 10–12.

131 Exhibit 574, Overview Report: Casino Surveillance Footage, Appendices 10–51; Exhibit 87, S. Lee #1, paras 67–70 and exhibits N, O, P.

132 Evidence of R. Barber, Transcript, November 3, 2020, pp 58–59; Evidence of T. Robertson, Transcript, November 6, 2020, pp 76–77.

133 Exhibit 181, Vander Graaf #1, exhibit M.

he took on a new role within GPEB in July 2015 that provided him with greater insight into suspicious activity in casinos across the province. He estimated that approximately 90 percent of large cash transactions took place at the River Rock at that time.[134] Mr. Barber's evidence in this regard is generally consistent with the contents of the spreadsheet that he and Mr. Ackles compiled of suspicious transactions that took place in July 2015.[135] Of the 133 transactions recorded in that spreadsheet, 114 took place at the River Rock, compared to 14 at the Edgewater Casino, four at the Starlight Casino, and a single transaction at the Grand Villa Casino. The conclusion that large and suspicious cash transactions were concentrated at the River Rock is also supported by graphical representations of reporting data prepared by BCLC, which are in evidence before me.[136]

It is clear, however, that money laundering was not isolated to the River Rock. While the rates of suspicious activity were lower at other casinos, the record before me reveals that rates of suspicious transactions elsewhere in the Lower Mainland were also elevated, and in some cases troublingly so, prior to the implementation of the cash conditions program and/or Dr. German's source-of-funds recommendation.[137] There is evidence before me that large transactions involving suspicious cash took place at other casinos in the region including the Starlight,[138] Grand Villa,[139] and Edgewater[140] casinos, in addition to the River Rock, during the time period identified above.

Conclusion

Based on the record before me, there is little room for doubt that extensive money laundering occurred in the casinos of the Lower Mainland over the course of a decade, from approximately 2008 to 2018. During this time period, hundreds of millions of dollars in illicit funds were accepted from VIP patrons who had received this cash from criminal organizations on the condition that it be repaid, with repayment often taking place in another medium of exchange and in another jurisdiction. By accepting these enormous quantities of criminal proceeds, the gaming industry in this province

134 Evidence of R. Barber, Transcript, November 3, 2020, pp 58–59.

135 Exhibit 144, Ackles #3, Exhibit D; Exhibit 145, Barber #1, Exhibit F.

136 Exhibit 482, Cuglietta #1, exhibit A.

137 Ibid.

138 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 5–6, 43–44, 181–182; Evidence of M. Hiller, Transcript, November 9, 2020, pp 10–13; Exhibit 488, (Previously marked as Exhibit A) Letter from Joe Schalk re Suspicious Currency Transactions – Money Laundering Review Report (December 27, 2012) [Schalk Letter December 2012]; Exhibit 145, Barber #1, exhibit F; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 23–31; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 86–87; Evidence of D. Dickson, Transcript, January 22, 2021, pp 4–7; Exhibit 507, Sturko #1, exhibit E; Exhibit 148, Tottenham, para 18 and exhibit 3; Evidence of S. Beeksma, Transcript, October 26, 2020, p 38; Exhibit 760, IPOC Report 2012.

139 Exhibit 79, Beeksma #2, exhibits 12 and 32; Evidence of M. Hiller, Transcript, November 9, 2020, pp 12–13; Exhibit 488, Schalk Letter December 2012; Exhibit 145, Barber #1, exhibit F; Exhibit 148, Tottenham #1, exhibit 3; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 124–25.

140 Evidence of S. Lee, Transcript, October 27, 2020, pp 18–19; Evidence of M. Hiller, Transcript, November 9, 2020, pp 12–13; Exhibit 145, Barber #1, exhibit F; Exhibit 148, Tottenham #1, exhibits 3 and 38; Evidence of D. Tottenham, Transcript, November 4, 2020, p 139; Exhibit 87, S. Lee, paras 28–30.

ensured continued demand for illicit cash. This demand was exploited by criminal organizations, who used it as a means of converting bulky and highly suspicious cash into more convenient and discreet forms while also transferring it to other jurisdictions. Having determined that money laundering did occur in the province's gaming industry, the extent of this activity, and when and where it occurred, the obvious questions that remain are why this problem developed, and who contributed to its rise and perpetuation. These questions are addressed in Chapter 14.

Chapter 14
What Contributed to Money Laundering in BC's Gaming Industry?

In the previous chapter, I found that money laundering did occur in British Columbia's gaming industry and made findings as to the nature and extent of the activity amounting to money laundering. Having done so, the Commission's mandate[1] requires that I next consider the factors that contributed to the growth and perpetuation of this activity. These include "the acts or omissions of regulatory authorities or individuals with powers, duties or functions in respect of" the gaming sector and whether any such acts or omissions amounted to corruption. The discussion that follows does so in two parts. The first part considers the contextual factors that formed the environment in which the money laundering crisis described in the preceding chapters developed and that enabled the rise of this activity in the province's casinos. The second part focuses on whether and how the acts and omissions of "regulatory authorities or individuals with powers, duties or functions in respect of" the gaming sector ("industry actors"), occurring within the context described in part one, contributed to the growth and perpetuation of this problem.

Part 1: Contextual Factors that Contributed to the Growth and Perpetuation of Money Laundering in BC's Gaming Industry

Before discussing whether and how the acts and omissions of industry actors contributed to the growth and perpetuation of money laundering in British Columbia's gaming industry, it is necessary to consider the context in which these actors

1 Commission of Inquiry into Money Laundering in British Columbia Terms of Reference, s 4(1).

operated. In my view, the origins of money laundering in the gaming industry can be found, in part, in a constellation of factors that were, to a large extent, beyond the control of industry actors in this province. While these actors played a critical role in the development of this problem, their role largely took the form of responses – or the failure to respond – to an issue that was not entirely of their own making. In this sense, this initial discussion sets the stage for that which follows, which focuses squarely on the conduct of those industry actors, by describing the conditions and constraints under which they operated and to which they were called to respond.

The discussion of contextual factors below is divided into three parts. The first addresses factors that contributed to the demand for illicit cash, including the evolution of the industry, the historical centrality of cash in the industry, and Chinese currency export controls. The second focuses on the ready availability of substantial quantities of proceeds of crime in the Lower Mainland. The third, and final, contextual factor discussed below is a regulatory model that was not adequate to effectively address the growth of suspicious transactions in the industry.

The Demand for Illicit Cash

As discussed in Chapter 13, the money laundering typology prevalent in the gaming industry in this province prior to 2018 was dependent on patrons bringing vast quantities of illicit funds into casinos in the Lower Mainland in order to gamble. There is no evidence that these patrons did so under duress or coercion, and based on the evidence before me, I accept that these patrons were generally not motivated to launder these illicit funds.[2] The obvious question raised by these facts is why these patrons, who were not intent on laundering money themselves, would voluntarily choose to gamble using large volumes of cash obtained from non-traditional, suspicious sources. In my view, the demand for illicit cash is explained by three factors: the evolution of the province's gaming industry, the historic centrality of cash in the industry, and Chinese currency export restrictions.

Evolution of the Province's Gaming Industry

The first contextual factor that contributed to the rise of money laundering in the province's gaming industry is the evolution of the industry, beginning in the late 1990s, from one centred around small, temporary casinos operated by and for the benefit of charities[3] into a large, commercial, industry generating over a billion dollars

2 Exhibit 166, Affidavit #1 of Michael Hiller, sworn on November 8, 2020 [Hiller #1], para 74; Exhibit 112, Letter from Joe Schalk re Money Laundering in BC Casinos (February 28, 2011) [Schalk Letter February 2011]; Exhibit 760, Casino – Investigational Planning & Report – IPOC (January 30, 2012) [IPOC 2012]; Exhibit 78, Affidavit #1 of Steve Beeksma, affirmed on October 22, 2020 [Beeksma #1], para 75.

3 Exhibit 559, Affidavit #1 of Walter Soo, made on February 1, 2021 [Soo #1], paras 16–23; Exhibit 147, Affidavit #1 of Muriel Labine, affirmed on October 23, 2020 [Labine #1], para 4; Evidence of M. Labine, Transcript, November 3, 2020, pp 167–68; Evidence of R. Coleman, Transcript, April 28, 2021, pp 21–23; Exhibit 67, Overview Report: Regulation of Gaming in BC [OR: BC Gaming Regulations], para 70; Evidence of R. Duff, Transcript, January 25, 2021, pp 6–9.

a year in revenue for the provincial government, including $1.25 billion in 2014–15 as money laundering in the gaming in the gaming industry peaked.[4] This evolution transformed virtually every aspect of the industry, involving the construction of large and sophisticated new facilities,[5] expanded hours,[6] dedicated VIP facilities and services,[7] and, crucially, bet limits that increased from $5 prior to 1996 to $100,000 by 2014[8] – a 20,000-fold increase in less than 20 years.

The industry actors that will be discussed in the next section of this chapter undoubtedly played a role in this evolution. However, by the time that increases in suspicious cash began to attract the attention of the Gaming Policy and Enforcement Branch (GPEB) investigation division in 2007 and 2008,[9] this evolution was nearly complete. While there were increases in betting limits[10] and enhancements to VIP facilities still to come,[11] new casinos had largely been built,[12] and a transition, to paraphrase Rick Duff, the long-time manager of the River Rock Casino, from "card rooms to casinos,"[13] had been achieved. As such, while some of these developments will be revisited in the discussion of the actions and omissions of industry actors, this evolved industry can, in part, be fairly viewed as a part of the context in which the industry's money laundering crisis arose.

This evolution contributed to the rise of suspicious cash by attracting new patrons to the province's casinos[14] and enabling play at levels previously unknown in British Columbia. Had the industry remained what it was in the mid-1990s, it is difficult to imagine that buy-ins for hundreds of thousands of dollars would have become the norm. Even if

4 Evidence of D. Sturko, Transcript, January 28, 2021, pp 146–47; Evidence of R. Duff, Transcript, January 25, 2021, pp 19–21; Exhibit 559, Soo #1, paras 50–52; Exhibit 72, Overview Report: British Columbia Lottery Corporation Annual Reports (1986–2018/19) [OR: BCLC Reports 1986–2018/19], pp 1541, 1470, 1395, 1322, 1250, 1161.

5 Evidence of R. Duff, Transcript, January 25, 2021, pp 19–20; Exhibit 559, Soo #1, paras 50–52.

6 Evidence of W. Soo, Transcript, February 9, 2021, p 6; Evidence of M. Labine, Transcript, November 3, 2020, p 169; Exhibit 147, Labine #1, para 5.

7 Evidence of R. Duff, Transcript, January 25, 2021, pp 4–5, 22–24, 27–28, 35; Evidence of M. Chiu, Transcript, January 21, 2021, pp 4–7; Exhibit 148, Affidavit #1 of Daryl Tottenham, sworn October 30, 2020, para 26 [Tottenham #1]; Exhibit 166, Hiller #1, paras 29–30; Exhibit 1040, Affidavit #2 of Bill Lang, affirmed on May 21, 2021 [Lang #2]; Exhibit 559, Soo #1, paras 26–33, 60–67; Evidence of W. Soo, Transcript, February 9, 2021, pp 11–23.

8 Exhibit 505, Affidavit #1 of Jim Lightbody, sworn on January 25, 2021 [Lightbody #1], paras 40–56, exhibit 22; Evidence of R. Duff, Transcript, January 25, 2021, pp 7–8, 24–25, 29–40; Evidence of W. Soo, Transcript, February 9, 2021, pp 45–46; Evidence of M. Graydon, Transcript, February 11, 2021, pp 10–11; Exhibit 576, Affidavit no. 1 of Michael Graydon, made on February 8, 2021 [Graydon #1], paras 49–51; Exhibit 544, BCLC Letter from Michael Graydon to John Mazure, re High Limit Table Changes (December 19, 2013).

9 Exhibit 181, Affidavit #1 of Larry Vander Graaf, made on November 8, 2020 [Vander Graaf #1], para 35, exhibit G; Evidence of J. Schalk, Transcript, January, 22, 2021, p 109; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 48, 51–52, 165–166 and Transcript, November 13, 2020, p 39.

10 Exhibit 505, Lightbody #1, paras 40–56, exhibit 22; Exhibit 576, Graydon #1, paras 49–51; Exhibit 544, BCLC Letter from Michael Graydon to John Mazure, re High Limit Table Changes (December 19, 2013).

11 Exhibit 559, Soo #1, paras 60–65; Evidence of W. Soo, Transcript, February 9, 2021, pp 33–37.

12 Exhibit 559, Soo #1, paras 50–52.

13 Evidence of R. Duff, Transcript, January 25, 2021, p 20.

14 Evidence of R. Duff, Transcript, January 25, 2021, pp 20–21; Evidence of W. Soo, Transcript, February 9, 2021, p 58.

not strictly prohibited, a $100,000 buy-in would simply serve no purpose where bets are limited to $5. In such a context, even a patron that unfailingly lost every single hand they played, would need to place 20,000 bets before they had exhausted their buy-in. By 2014, that patron would need to play only a single hand. I am unconvinced as well that patrons with the means to gamble at the elevated levels permitted by 2014 would have been as enamoured with the old Richmond Casino and other gaming facilities of its vintage as they clearly were with the River Rock and other new, modern casinos. Accordingly, it was these changes that created the *opportunity* for VIP patrons to spend vast quantities of cash on gaming and made it attractive for them to do so. Had this evolution never occurred, it may be that these individuals would have found other reasons to acquire and spend vast quantities of illicit cash, perhaps even by gambling in illegal casinos. It simply would not have been possible, however, to do so in legal gaming establishments.

I pause to note as well that I do not accept that this evolution was inevitable. I understand based on the evidence of former minister responsible for gaming, Rich Coleman[15] and those who worked in the industry in its early days that the charitable gaming model came with its own disadvantages and that some modernization was required. It is clear, however, that the gaming industry that had developed by the mid-2010s was not the only alternative. It is striking that, in recounting a suggestion he made to David Eby, when Mr. Eby was the minister responsible for gaming, that the Province consider exiting the high-limit gaming industry, former BCLC board chair Bud Smith testified that the Vancouver gaming market is one of only five markets globally –including Las Vegas, Boston, Macau, and Australia – where gaming at the levels permitted in this province's casinos occurs.[16] Vancouver is undoubtedly a vibrant and global city, but one need only consider the major international markets excluded from this list to appreciate the rarefied company in which the Lower Mainland has found itself. The Vancouver market may have some unique advantages, including those referred to in the testimony of Jim Lightbody, who was appointed CEO of the British Columbia Lottery Corporation (BCLC) in 2014, after several years as its vice-president of casino and community gaming.[17] However, that cities such as New York, London, Paris, Shanghai, Tokyo, Los Angeles, Toronto, and many others have not developed gaming industries like the Lower Mainland's suggests to me that this was not the only path open to the province's gaming industry. Rather, it must be, at least in part, the result of policy choices made by the provincial government and the BC Lottery Corporation that have not been mirrored by the decisions made in other jurisdictions.

The Historic Centrality of Cash in BC's Gaming Industry

The opportunity to gamble significant amounts of money presented by British Columbia's evolved gaming industry does not, in itself, explain the vast quantities of suspicious funds that came to afflict the province's casinos. Rather, the demand

15 Evidence of R. Coleman, Transcript, April 28, 2021, pp 20–25.

16 Evidence of B. Smith, Transcript, February 4, 2021, p 90.

17 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 24–25; Exhibit 505, Lightbody #1, para 68.

for illicit cash was also the product, in part, of the historic centrality of cash[18] in the gaming industry and the slow development of alternative methods by which patrons could buy in and gamble.

As discussed earlier in this chapter, I accept that the patrons responsible for bringing illicit funds into the province's casinos generally did not do so with the intent of laundering money, or even necessarily with the knowledge that the funds they were using were the proceeds of crime. Rather, it appears that these patrons simply wanted to gamble at the elevated levels permitted in the province's casinos and the reason that these patrons did so using illicit cash was that they were either unable or unwilling to buy in using alternative means. The evidence before me suggests that, to some extent, the use of cash may have been motivated by an inability on the part of these patrons to access Canadian financial services.[19] It is clear, however, that some patrons who had historically relied on suspicious cash were eventually able to find alternative means of buying-in once they were placed on conditions that forced them to do. This suggests that they may have been able to do so previously, had they been required to.[20] In either case, whether these patrons were motivated to deal in cash because of an inability to buy-in in any other way or because cash facilitators, who delivered vast quantities of cash on demand at any hour of the day or night, provided an enormously convenient service, it is clear that the alternatives to cash offered by the gaming industry simply did not meet the needs and/or preferences of patrons.

There is ample evidence before me to indicate that the gaming industry in British Columbia was historically cash only.[21] The very first efforts to introduce cash alternatives did not occur until 2009, when a pilot project to test the viability of Patron Gaming Fund accounts was introduced at the River Rock, Starlight, and Edgewater casinos.[22] In the years that followed, further cash alternatives were added, but they were slow to develop and, in many cases, not particularly popular.[23] Nor, crucially, was the use of these alternatives mandatory, regardless of the level at which a patron played.[24]

18 Evidence of T. Towns, Transcript, January 29, 2021, pp 143–44, 169; Evidence of W. Soo, Transcript, February 9, 2021, pp 6–7; Evidence of S. Lee, Transcript, October 27, 2020, pp 11–12; Evidence of S. Beeksma, Transcript, October 26, 2020, p 28; Evidence of R. Duff, Transcript, January 25, 2011, p 8; Evidence of P. Ennis, Transcript, February 3, 2021, pp 68–69.

19 Exhibit 78, Beeksma #1, para 81; Exhibit 559, Soo #1, paras 73–74.

20 Exhibit 78, Beeksma #1, para 81; Evidence of D. Tottenham, Transcript, November 4, 2020, p 150.

21 Evidence of T. Towns, Transcript, January 29, 2021, pp 143–44, 169; Evidence of R. Duff, Transcript, January 25, 2021, p 8; Evidence of W. Soo, Transcript, February 9, 2021, pp 6–8; Evidence of S. Beeksma, Transcript, October 26, 2020, p 28; Evidence of S. Lee, Transcript, October 27, 2020, pp 11–12; Exhibit 517, Affidavit #1 of Terry Towns, made on January 22, 2021 [Towns #1], para 58; Evidence of P. Ennis, Transcript, February 3, 2021, pp 68–69.

22 Exhibit 517, Towns #1, paras 92–93, exhibit 25; Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 63.

23 Exhibit 517, Towns #1, paras 115–131; Evidence of M. Graydon, Transcript, February 11, 2021, pp 27–28; Exhibit 557, Affidavit #1 of Douglas Scott, made on February 3, 2021 [Scott #1], para 40; Exhibit 559, Soo #1, paras 73–74; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 19–20.

24 Evidence of M. Graydon, Transcript, February 11, 2021, p 30; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 16–18 and Transcript, January 29, 2021, pp 116–17; Evidence of T. Towns, Transcript, January 29, 2021, pp 174–75; Evidence of D. Scott, Transcript, February 8, 2021, pp 30–32.

As a result, even as the gaming industry rapidly evolved to the point where patrons were permitted to play at levels where the use of cash would seem to have been enormously inconvenient, the industry remained largely oriented around cash.

In this sense, while the expansion of the industry created the opportunity for high-limit VIP gaming – for which there was clearly a demand – the historic centrality of cash in the industry and the absence of mandated cash alternatives played a role in creating a demand for cash specifically. Had the gaming industry mandated cash alternatives, it is possible that high-limit patrons would have had little reason or opportunity to resort to illicit cash and the industry could have evolved on the same trajectory that it did while being spared from the flood of illicit cash observed in the province's casinos throughout much of the 2010s.

Chinese Currency Export Restrictions

A further factor that contributed to the demand for illicit cash is Chinese currency export restrictions. There is evidence before the Commission that the high-limit VIP patrons responsible for bringing substantial quantities of cash into the province's casinos were, in many cases, individuals with lives split between China and British Columbia.[25] This included those who maintained a residence in this province but business interests in China, as well as those who resided in China but had children or other family members based in British Columbia or who otherwise had connections to both jurisdictions.[26]

In many cases, it seems that the wealth these individuals held in China was more than adequate to allow them to gamble at the elevated levels permitted in the Lower Mainland's casinos.[27] The difficulty they faced was that Chinese regulations prohibited them from removing more than the equivalent of approximately Can$50,000 from China in any year.[28] As such, a patron intent on gambling at the highest levels offered in the province's casinos would not be permitted to bring enough money out of China in an entire year to play even a single hand of baccarat at the maximum betting limit.

25 Evidence of W. Soo, Transcript, February 9, 2021, pp 36–37, 49–50; Evidence of T. Doyle, Transcript, February 9, 2021, pp 121–22; Evidence of R. Duff, Transcript, January 25, 2021, p 34; Evidence of T. Towns, Transcript, January 29, 2021, p 164; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 24–25.

26 Evidence of W. Soo, Transcript, February 9, 2021, pp 49–50, 59–60; Evidence of T. Doyle, Transcript, February 9, 2021, pp 121–22; Evidence of R. Duff, Transcript, January 25, 2021, p 34; Evidence of T. Towns, Transcript, January 29, 2021, p 164; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 24–25.

27 Evidence of T. Towns, Transcript, January 29, 2021, p 164; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 60–61; Evidence of G. Friesen, Transcript, October 28, 2020, p 92, 116–17, 129–30 and Transcript, October 29, 2020, pp 5, 51–52, 55–56; Evidence of J. Karlovcec, Transcript, October 29, 2020, p 89 and Transcript, October 30, 2020, p 125; Exhibit 111, Letter from John Karlovcec, re Money Laundering in BC Casinos (December 24, 2010) [Karlovcec Letter December 2010].

28 Exhibit 645, Keith Bradsher, "China Tightens Controls on Overseas Use of Its Currency," *New York Times*, November 29, 2016; Exhibit 646, Gabriel Wildau, "Chinese Foreign Property Investment at 4-Year Low Amid Clampdown," *Financial Times*, November 22, 2017; Evidence of D. Dickson, Transcript, January 22, 2021, p 37; Exhibit 78, Beeksma #1, exhibit U.

These restrictions contributed to the demand for cash for gambling purposes. Were it not for Chinese currency export restrictions, high-limit patrons could have accessed some of their wealth for gambling in Canada by legal methods. As a result of these restrictions, however, they were required to find a source of funds in Canada that was not derived directly from their own wealth. The Vancouver model money laundering typology is perfectly situated to solve this problem, allowing casino patrons to access cash in Canada without having to physically transport cash or other monetary instruments or otherwise transfer their funds out of China. By repaying those funds in China, patrons ensure that no money ever leaves China and avoid running afoul (or at least the appearance of running afoul) of currency export restrictions, while remaining able to obtain cash with which to gamble or, conceivably, spend in other ways.

In this sense, Chinese currency export restrictions further contributed to the demand for illicit cash. Patrons that wanted to gamble at high levels but could not remove their wealth from China through legitimate means were unable to make effective use of the cash alternatives that were available in casinos, which were largely predicated on access to the services of North American financial institutions. As a result, their options were limited to reliance on cash facilitators or not gambling at all. We have no way of knowing how many chose the latter option, but clearly some chose the former.

Before moving on to the next contextual factor, I wish to make absolutely clear that I am not suggesting that the race or ethnicity of the clientele of British Columbia's casinos was in any way a contributing factor to money laundering in the gaming industry. What I am identifying as a contributing factor are the specific laws of a foreign state, in this case China, which prevented those patrons from accessing wealth held in that state. Due to British Columbia's historic and cultural connections[29] and geographic proximity to China, it seems likely that this factor may have had a greater impact on this province's gaming industry than those of other jurisdictions, but it is important that it be understood that it is the laws of that foreign state that are at issue here and not the race or ethnicity of those subject to those laws.

The Supply of Illicit Cash

The evolution of British Columbia's gaming industry, in combination with the absence of mandatory cash alternatives and Chinese currency export restrictions assist in explaining the demand for illicit funds for the purpose of gambling. However, this demand alone would have been of little significance without the supply to meet it. Accordingly, a critical contextual factor that contributed to the rise of money laundering in the province's gaming industry was one or more sources of substantial quantities of illicit funds.

29 Evidence of W. Soo, Transcript, February 9, 2021, pp 58–64; Evidence of R. Duff, Transcript, January 25, 2021, p 8.

Availability of Substantial Quantities of Proceeds of Crime

The volume of funds supplied to casino patrons and the speed with which it could be produced, seemingly at any hour of the day or night, suggests that cash facilitators had ready access to a very sizable supply of cash. There is some evidence before me that these funds were linked to the drug trade,[30] and multiple witnesses with law enforcement experience described the appearance of cash accepted in the province's casinos as being consistent with "drug money," "street money," or other similar descriptors.[31] While it seems highly plausible that much of these funds were generated through illicit drug transactions, I am unable to say with any certainty that this was the source of all the funds. It is possible that some portion of the funds accepted by casinos was generated through other types of criminal activity inside of British Columbia or was generated elsewhere and imported into the province from other jurisdictions for the purpose of laundering.

Whatever the source, it is clear that the money laundering observed in the province's casinos was dependent on an enormous supply of illicit funds representing the proceeds of substantial criminal activity. Unlike more traditional "loan sharking" in which loans are repaid, with significant interest, in the jurisdiction in which they are issued, the Vancouver model money laundering typology would not generally result in the return of the distributed funds to the lender in British Columbia. Cash provided to gamblers in British Columbia that was repaid in China could not be recycled into a loan to another casino patron and would not generate interest in the province that could be used to expand the money-lending operation. In most instances, the cash distributed by cash facilitators and gambled in casinos must have represented fresh proceeds of crime, suggesting that the supply of illicit funds that this cash came from required – and received – constant replenishment.

The large quantities of illicit funds that made their way into the province's casinos takes on new significance when we consider that these funds must have been constantly replenished through new, profit-generating crimes. The scale of the criminal activity required to maintain this supply of funds and the toll it must have taken on society, whether within British Columbia or elsewhere, is extremely troubling.

Absence of an Adequate Regulatory Model

In my view, the regulatory model that governed the gaming industry throughout the time period in which I have found that money laundering was occurring in

30 Exhibit 522, Affidavit No. 1 of Brad Desmarais, affirmed on January 28, 2021 [Desmarais #1], exhibit 55; Evidence of B. Desmarais, Transcript, February 1, 2021, p 121–22; Exhibit 663, Affidavit of Cpl. Melvin Chizawsky, made on February 4, 2021; Evidence of C. Chrustie, Transcript, March 29, 2021, pp 67–69; Evidence of R. Alderson, Transcript, September 9, 2021, pp 41–43.

31 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 56, 114; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 4, 6, 10; Evidence of D. Dickson, Transcript, January 22, 2021, pp 6–7; Evidence of J. Schalk, Transcript, January 22, 2021, p 113; Evidence of R. Barber, Transcript, November 3, 2020, pp 14–15; Exhibit 144, Affidavit #3 of Ken Ackles, made on October 28, 2020 [Ackles #3], para 19; Exhibit 145, Affidavit #1 of Robert Barber, made on October 29, 2020 [Barber #1], paras 29–30; Exhibit 181, Vander Graaf #1, para 54; Exhibit 166, Hiller #1, para 58.

the province's gaming industry contributed to the growth and perpetuation of this problem by inhibiting the industry's ability to respond to this issue. As discussed in Chapter 9, the regulatory model in place at that time was established when the *Gaming Control Act*, SBC 2002, c 14, was enacted in 2002. While minor changes were made to the Act periodically following its enactment,[32] the basic structure remained unchanged until 2018[33] and in large part remains in place today. In my view, the structure of the industry as established in this Act created an imbalance between the powers and authorities of the Gaming Policy and Enforcement Branch and BC Lottery Corporation, which undermined the ability of the Branch to fulfill its mandate and created a gap in regulatory oversight over the BC Lottery Corporation.

While the *Gaming Control Act* assigns the Gaming Policy and Enforcement Branch responsibility for safeguarding the integrity of the gaming industry,[34] its direct regulatory authority, prior to 2018,[35] was largely limited to oversight of gaming service providers and registered gaming workers. The Act contemplated the general manager of the Gaming Policy and Enforcement Branch issuing directives to the BC Lottery Corporation, but only with the consent of the responsible minister.[36] The Gaming Policy and Enforcement Branch's inability to autonomously issue directions to the BC Lottery Corporation impaired the ability of the Branch to fulfill its mandate because it is the BC Lottery Corporation, not service providers, that is responsible for the conduct and management of gaming.[37] In short, the Branch is responsible for the integrity of gaming,[38] but for most of its existence had no direct authority over the organization primarily responsible for determining how the gaming industry actually operates.

This effectively left oversight of the BC Lottery Corporation to the responsible minister directly, who may have had little prior experience with or knowledge of the gaming industry[39] and for whom, in practice, gaming was invariably a small part of a much larger portfolio.[40] As I will discuss later in this chapter, this imbalance in the regulatory structure of the industry would become a significant problem, as the BC Lottery Corporation proved resistant to the Gaming Policy and Enforcement Branch's advice and recommendations, and the succession of general managers responsible for leading the Branch were unable or unwilling to seek ministerial intervention prior to 2015.

In my view, a regulator properly empowered to fulfill its mandate of safeguarding the integrity of the industry would have had the necessary authority to require any

32 Exhibit 70, Overview Report: Gaming Control Act Hansard [OR: Hansard].

33 *Gaming Control Act*, s 28(3); Exhibit 541, Affidavit #1 of John Mazure, sworn on February 4, 2021 [Mazure #1], para 224; Evidence of S. MacLeod, Transcript, April 19, 2021, p 20.

34 Ibid, s 23.

35 Ibid, s 28(3); Exhibit 541, Mazure #1, para 224; Evidence of S. MacLeod, Transcript, April 19, 2021, p 20.

36 Evidence of J. Mazure, Transcript, February 5, 2021, pp 207–208; *Gaming Control Act*, s 28(3) (Repealed).

37 *Gaming Control Act*, ss 7(1), 31(2)(b).

38 Ibid, s 23.

39 See, for example, Evidence of S. Bond, Transcript, April 22, 2021, p 55.

40 Evidence of S. Bond, Transcript, April 22, 2021, pp 53–54; Evidence of M. de Jong, Transcript, April 23, 2021, pp 3–4; Evidence of D. Eby, Transcript, April 26, 2021, pp 2–3, 23, 226–27.

actor in the industry to take immediate action to respond to obvious criminal activity afflicting the province's casinos. Given the BC Lottery Corporation's role in dictating how the industry operated,[41] it was vitally important that the Gaming Policy and Enforcement Branch at least have clear authority over the BC Lottery Corporation. That it did not significantly inhibited the industry's ability to take corrective action when the BC Lottery Corporation proved unwilling to adequately respond as the money laundering crisis emerged.

Conclusion

The discussion that follows turns from the role played by these contextual factors in the growth and perpetuation of money laundering in the gaming industry to consider that played by the actions and omissions of industry actors. As these actions and omissions are considered, it is important to continue to bear the contextual factors discussed above in mind. While they do not necessarily explain the actions of the individuals and organizations addressed in the section that follows, these factors are responsible for shaping the environment in which they operated.

While these factors may not justify the actions of the individuals and organizations discussed below, in my view, they played a significant role in creating the conditions to which industry actors were called to respond. The money laundering that I have found afflicted the industry between 2008 and 2018 was, in large part, the product of the factors discussed above and not the result of deliberate efforts to foster criminal activity in the industry. To the extent that industry actors contributed to this problem, it was largely through their failure to effectively take action to anticipate and ultimately solve this problem, not by setting out to create it in the first place.

Part 2: Actions and Omissions of Industry Actors and Stakeholders

While the contextual factors discussed earlier in this chapter created conditions that were conducive to money laundering in British Columbia's gaming industry and assist in explaining its origins, it was the actions and omissions of government, industry and law enforcement that shaped its evolution into the crisis that afflicted the industry through much of the 2010s. As indicated above, there is no evidence that any of these actors deliberately set out to facilitate money laundering in the province's casinos; it is clear to me that they did not. However, as this activity grew, there were innumerable opportunities for various industry actors to intervene in order to stop or slow the burgeoning crisis. In many instances, these opportunities were either not recognized or not acted upon.

The discussion below considers, in turn, the following industry actors: gaming service providers, law enforcement, the BC Lottery Corporation, the Gaming Policy and

41 *Gaming Control Act*, s 7.

Enforcement Branch, and elected officials in critical roles in government, including former ministers responsible for gaming Rich Coleman, Shirley Bond, Michael de Jong, and David Eby, and former Premier Christy Clark. With the exceptions of Ms. Bond and Mr. Eby, the actions and omissions of each of these individuals and organizations contributed, to some extent, to the growth and development of money laundering in British Columbia's casinos.

I do not suggest that the contributions of these individuals and organizations were all equal. As will become apparent in the discussion that follows, it is clear that they were not. Each played a unique role in the gaming industry, was empowered with distinct levels of authority, and had access to different levels of information. The nature and extent to which the actions and omissions of each contributed to the growth and perpetuation of money laundering in the industry varies in accordance with these factors and – of course – with the nature of those actions and omissions. Still, in my view, that such a broad range of individuals and organizations played some role in facilitating, or at least failing to prevent, the development of the money laundering crisis that emerged within the province's gaming industry reveals the extent to which this crisis was the result of a systemic failure on the part of government, law enforcement and the industry itself. Gaming service providers, the Gaming Policy and Enforcement Branch, the BC Lottery Corporation, law enforcement, and the provincial government all had some level of capacity to prevent or slow money laundering in the province's casinos. As will be discussed below, while each took action at some level, none did all that they could to prevent this problem from developing or to respond to it as it grew. As such, all must share in the responsibility for its occurrence.

Actions and Omissions of Gaming Service Providers

Based on the evidence before me, it is clear that the actions and omissions of gaming service providers associated with large Lower Mainland casinos operating during the relevant period played a role in the development and perpetuation of money laundering in British Columbia's gaming industry. Service providers are private-sector businesses that operate casinos on behalf of BCLC in accordance with the terms of "operational services agreements."[42] It is service provider staff that provide casino security, monitor surveillance cameras, deal cards, and staff cash cages. Accordingly, it is difficult to envision how a service provider could avoid having at least some hand in virtually anything that happens in a casino in this province.

In my view, there are three ways in which the actions of service providers contributed to money laundering in the gaming industry between 2008 and 2015. First, as service providers are responsible for the day-to-day operation of the province's

42 Exhibit 67, OR: BC Gaming Regulations, paras 121–25.

casinos,[43] it was their staff that received the suspicious cash that I have found was, in many cases, the proceeds of crime. Second, service providers participated in the growth and development of British Columbia's gaming industry, discussed previously, particularly in the development of high-limit VIP gaming in the Lower Mainland that drove the acceleration of the use of suspicious cash in casinos. Finally, it is clear from the evidence before me that service provider revenue considerations influenced the actions taken by BCLC to reduce suspicious transactions. In particular, the evidence suggests that, partly in response to communications with service providers related to the potential revenue impact of actions directed at VIPs, BCLC limited its efforts to reduce suspicious transactions.

That the actions of service providers contributed to the growth and perpetuation of money laundering in the gaming industry does not mean that service providers bear primary responsibility for the development and continuation of this problem. In my view, they do not. Viewed in the context of the place of service providers in the industry, including BCLC's role in setting casino policy and procedures, the limits of each service provider's influence to the casinos that they operated, the limited information available to service providers, and their status as private businesses, the importance of the role played by the actions of service providers is vastly diminished. When these factors are taken into account, it is clear, in my view, that the significance of the actions and omissions of service providers pales in comparison to that of BCLC and GPEB, discussed later in this chapter.

Finally, it is important to note that service providers, of course, are not a single, unified entity. There was a tendency in the Commission's hearings to discuss service providers collectively that has, at times, spilled into this Report. Given the common role played by service providers in the gaming industry, this is not necessarily inappropriate in most contexts. However, in discussing the manner in which service providers have contributed to the growth and perpetuation of money laundering in the gaming industry, it is important to distinguish between the conduct of different service providers where their actions and circumstances differed. This includes distinguishing between the different service providers that operate different casinos, as well as those that operated a single casino at different points in time, including the transfer of control of properties operated by Gateway Casinos & Entertainment Inc. (Gateway Inc.) to Gateway Casinos & Entertainment Limited (Gateway Limited) in 2010[44] and Paragon Gaming's exit from the BC gaming industry following the closure of Edgewater Casino and prior to the opening of Parq Vancouver.[45] I endeavour to do so as required in the discussion below.

43 Ibid, paras 121–24; Exhibit 76, Overview Report: BCLC Standards, Policies, Procedures and Operational Services Agreements [OR: BCLC Standards and Service Agreements]; Exhibit 572, Amended and Restated Casino Operational Services Agreement between BCLC and Great Canadian Casinos Inc. effective as at November 17, 2005 [Services Agreement 2005]; Exhibit 530, Affidavit #1 of Patrick Ennis, made on January 22, 2021 [Ennis #1], paras 22–41; Exhibit 560, Affidavit #1 of Terrance Doyle, made on February 2, 2021 [Doyle #1], paras 13–26.

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

45 Exhibit 67, OR: BC Gaming Regulations, paras 134–36.

Contribution of Actions of Service Providers to Money Laundering in BC's Gaming Industry

As indicated above, there are three principal ways in which the actions of service providers contributed to the growth and perpetuation of money laundering in British Columbia's gaming industry. First, service providers, who were responsible for the day-to-day operation of the province's casinos were, in a very literal and immediate sense, responsible for carrying out transactions in which significant amounts of illicit funds were accepted by those casinos. Second, service providers participated in the growth of the gaming industry and the expansion of VIP gaming in the province's casinos. Finally, concerns for service provider revenue became a limiting factor in BCLC's efforts to reduce suspicious cash in the industry, due in part to communications from service providers expressing concern about the potential impact of some of those measures.

Acceptance of Suspicious Funds by Service Providers

Service providers are responsible for the day-to-day operation of the province's casinos in accordance with the terms of operational services agreements with BCLC and under the regulation of GPEB. The responsibilities of service providers include supplying employees to work as cash cage staff, table games dealers, VIP hosts, and surveillance personnel. Accordingly, it is service provider staff who, for years, accepted suspicious cash at Lower Mainland casinos, catered to the VIPs who brought that cash into the casino, and identified transactions as suspicious and reported them to the BC Lottery Corporation.

Given the direct involvement of service provider staff in these transactions, and particularly given their responsibility for identifying and reporting these transactions as suspicious[46] (or "unusual," in the parlance of the industry),[47] it is obvious that service providers had access to detailed information about the nature of suspicious transactions occurring in casinos. Service provider staff would have been aware of transactions occurring in the casinos they operated that I have already found were easily recognizable as likely consisting of the proceeds of crime. While there is no evidence that service providers were widely staffed with experienced former police officers like BCLC[48] or GPEB,[49] this kind of professional experience was not required to identify that there was something seriously amiss in the transactions regularly taking place in casinos. In short, if service providers did not recognize that the casinos they

46 Exhibit 560, Doyle #1, paras 17–26; Exhibit 148, Tottenham #1, paras 8–9; Exhibit 78, Beeksma #1, para 44; Exhibit 166, Hiller #1, para 10; Exhibit 87, Affidavit #1 of Stone Lee, sworn on October 23, 2020 [S. Lee #1], para 26; Exhibit 517, Affidavit #1 of Terry Towns, made on January 22, 2021 [Towns #1], para 27; Exhibit 490, Affidavit #1 of Robert Kroeker, made on January 15, 2021 [Kroeker #1], paras 47–48; Exhibit 530, Ennis #1, paras 22–41.

47 Exhibit 560, Doyle #1, para 17; Exhibit 530, Ennis #1, para 22.

48 Exhibit 148, Tottenham #1, para 3; Exhibit 490, Kroeker #1, para 3; Exhibit 522, Desmarais #1, paras 7–15; Exhibit 166, Hiller #1, paras 3–5; Exhibit 484, Affidavit #2 of Kevin deBruyckere, sworn on October 23, 2020, para 4; Exhibit 517, Towns #1, paras 3–12; Evidence of G. Friesen, Transcript, October 28, 2020, p 34; Evidence of J. Karlovcec, Transcript, October 29, 2020, p 73.

49 Exhibit 181, Vander Graaf #1, paras 2–6; Evidence of D. Dickson, Transcript, January 22, 2021, pp 2, 106; Evidence of J. Schalk, Transcript, January 22, 2021, p 182; Exhibit 144, Ackles #3, paras 4–7; Exhibit 145, Barber #1, paras 5–8; Evidence of T. Robertson, Transcript, November 6, 2020, p 29.

were operating were routinely accepting significant volumes of suspicious funds that were likely the proceeds of crime, it is because they were simply not paying attention.

In light of the access they had to detailed information about the suspicious transactions occurring in their own casinos, service providers clearly had access to the information required to recognize the extent to which those casinos were regularly accepting illicit funds. Armed with this knowledge, common sense should have dictated that there was a clear need to refuse these suspicious transactions. Had service providers taken this step, the resulting impact on money laundering in the gaming industry is obvious. Even if BCLC, GPEB, law enforcement, and government had done absolutely nothing to address this issue, service provider refusal to accept suspicious cash could have dramatically reduced the volume of illicit funds accepted by casinos and largely eliminated money laundering in the industry. That service providers could have taken this step and did not do so undeniably contributed to the perpetuation of money laundering in the province's gaming industry.

Service Provider Authority to Refuse Transactions

Current and former Great Canadian Gaming Corporation (Great Canadian) executives Walter Soo, Terrence Doyle, and Robert Kroeker, who was a vice-president within both Great Canadian and BCLC at different times, all gave evidence indicating that, in their view, there were limits on the authority of service providers to refuse suspicious transactions.[50] Both Great Canadian and Gateway Limited took similar positions in their closing submissions, arguing that they lacked the capacity and authority to investigate the origins of cash used in these transactions and that making decisions and/or developing policies regarding the acceptance and refusal of transactions were beyond their role and authority.[51] In my view, there is little basis for doubt that service providers did have the authority to refuse transactions.

I accept that it was outside the normal role of service providers to set general policies for the acceptance and rejection of cash or other transactions in the province's casinos. I reject, however, that service providers lacked any capacity to refuse suspicious transactions, for three reasons. First, there is nothing in any of the operational services agreements before the Commission that would seem to require that service providers accept every transaction presented to them.[52] It is unimaginable that the intention underlying any of those agreements was that service providers would be obligated to accept transactions bearing obvious signs of criminality. Second, there is uncontradicted evidence that service providers *did*, on multiple occasions make autonomous decisions to refuse transactions. In April 2015, for example, the River Rock refused a bank draft presented in suspicious circumstances, even though it was not strictly required by conditions imposed on the patron by

50 Evidence of W. Soo, Transcript, February 9, 2021, pp 87–90; Evidence of T. Doyle, Transcript, February 9, 2021, pp 184–89; Evidence of R. Kroeker, Transcript, January 26, 2021, pp 119–20; Exhibit 1048, Affidavit of Diana Bennett, sworn on August 31, 2021, para 6.

51 Closing submissions, Great Canadian Gaming Corporation, paras 47–48, 56, 74; Closing submissions, Gateway Casinos & Entertainment Ltd., paras 38, 49–50; Transcript, October 18, 2021, pp 1, 10–11, 15, 17–19, 34.

52 Exhibit 572, Services Agreement 2005; Exhibit 76, OR: BCLC Standards and Service Agreements.

BCLC at that time.[53] Similarly, in an incident recounted in the evidence of former GPEB investigator Tom Robertson, a service provider made the decision to refuse a transaction after Mr. Robertson advised service provider staff that he did not believe the information a patron had provided to him regarding the source of a patron's cash was truthful.[54] Most significantly, Great Canadian, at the initiative of Patrick Ennis, a senior security and compliance staff member, made the autonomous decision to begin refusing a subset of suspicious transactions in 2016.[55] While a representative of BCLC apparently advised Great Canadian that it was not *required* to refuse these transactions, Great Canadian was never told that it should not or was not permitted to do so, and carried on with this policy even after receiving this advice.[56] Finally, the most compelling basis upon which any suggestion that service providers lacked the authority to refuse transactions should be summarily rejected, however, is simple common sense. The notion that service providers – confronted day after day with substantial amounts of cash bearing obvious indicators of criminal origins, dropped off in the dead of night, bundled in elastic bands, and packaged in shopping bags, knapsacks, and cardboard boxes – were under some legal obligation to accept this suspicious cash, much of which was likely the proceeds of crime, and had no choice but to facilitate money laundering by exchanging that cash for chips and permitting those presenting it to gamble is simply absurd, and I reject it.

However, even if service providers were somehow put in this untenable position, or had doubts as to whether they had the authority to refuse certain transactions, there is no basis to suggest that there was anything preventing them from raising concerns about the routine acceptance of this suspicious cash with BCLC, GPEB, or any other relevant authority. If concerned about these transactions but unsure of their authority to take action in response, service providers could surely have simply identified their concerns and asked for BCLC's blessing to turn the transactions away. Had they done so and been met with resistance from BCLC, it would perhaps be understandable if they had felt constrained in their ability to refuse suspicious cash. As there is no evidence before me that any service provider sought BCLC's approval to refuse these transactions, in my view, there is no credible basis for the suggestion that they had no choice but to accept them.

Distinguishing Between Service Providers

As identified above, it is necessary to distinguish between the different service providers active within the industry during the relevant time period. I note that the prevalence of suspicious transactions was not evenly distributed among casinos, even within the Lower

53 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 149–59 and Transcript, November 10, pp 85–87.

54 Evidence of T. Robertson, Transcript, November 6, 2020, pp 69–73.

55 Exhibit 530, Ennis #1, paras 40 and 55–56, exhibit R; Evidence of P. Ennis, Transcript, February 3, 2021, pp 82, 145–52; Evidence of P. Ennis, Transcript, February 4, 2021, pp 17–19; Evidence of T. Doyle, Transcript, February 10, 2021, pp 15–16.

56 Exhibit 530, Ennis #1, para 65; Evidence of P. Ennis, Transcript, February 3, 2021, pp 151–52.

Mainland.[57] As discussed previously, while not limited to the River Rock, the presence of suspicious cash was heavily concentrated at that casino.[58] In this sense, the decision on the part of Great Canadian to continue to accept this suspicious cash facilitated the laundering of illicit funds to a much greater extent than did similar decisions by other service providers. I do note that Great Canadian ultimately did, of its own accord, decide to refuse a subset of suspicious transactions, a decision that did go some length towards addressing the problem.[59] The timing of a service provider's involvement in the industry is also relevant. Gateway Inc. exited the industry in 2010,[60] early in the evolution of this crisis, while Parq Vancouver entered the industry in 2017,[61] more than two years after its peak and shortly before the problem was substantially addressed by the implementation of new measures in response to Dr. Peter German's source-of-funds recommendation, as discussed in Chapter 12. These two service providers conducted a much smaller sample of suspicious transactions and may not have had the same degree of insight into the problem as service providers who had been accepting large, suspicious cash buy-ins for many years.

Service Provider Participation in the Growth and Development of the Gaming Industry

In addition to the immediate role played by service provider staff in accepting transactions involving obviously illicit funds, the actions of service providers also contributed to the rise of money laundering in the province's gaming industry through their participation in the growth and development of the industry and, in particular, high-limit VIP gaming that was closely associated with suspicious transactions.

There is evidence before me that VIP gaming was a focus for casinos operated by multiple service providers active in the Lower Mainland.[62] This included evidence about the development of new VIP facilities at the Starlight casino,[63] VIP hosting programs and services,[64] and hundreds of thousands of dollars in "comps" (complimentary items and services provided by a casino) spent by Gateway Limited on a patron identified in this Report as "Patron B" both before and after that patron was placed on cash conditions.[65]

57 Exhibit 482, Affidavit #1 of Caterina Cuglietta, sworn on October 22, 2020 [Cuglietta #1], exhibit A; Exhibit 145, Barber #1, para 12; Evidence of M. Hiller, Transcript, November 9, 2020, p 13; Evidence of S. Beeksma, Transcript, October 26, p 36; Exhibit 144, Ackles #3, exhibit D; Exhibit 181, Vander Graaf #1, exhibit M.

58 Exhibit 482, Cuglietta #1, exhibit A; Exhibit 145, Barber #1, para 12; Evidence of M. Hiller, Transcript, November 9, 2020, p 13; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 94–95; Evidence of S. Beeksma, Transcript, October 26, 2020, p 36; Exhibit 144, Ackles #3, exhibit D.

59 Exhibit 530, Ennis #1, paras 40, 55–56, exhibit R; Evidence of P. Ennis, Transcript, February 3, 2021, pp 82, 145–52; Evidence of P. Ennis, Transcript, February 4, 2021, pp 17–19; Evidence of T. Doyle, Transcript, February 10, 2021, pp 15–16.

60 Exhibit 1047, Overview Report – Gateway Casinos & Entertainment Inc. and Gateway Casinos & Entertainment Limited.

61 Exhibit 67, OR: BC Gaming Regulations, para 134.

62 Exhibit 148, Tottenham #1, para 26; Evidence of R. Duff, Transcript, January 25, pp 25–27.

63 Evidence of M. Chiu, Transcript, January 21, 2021, pp 13–16; Exhibit 480, Affidavit #1 of Bill Lang, affirmed on January 15, 2021; Evidence of R. Duff, Transcript, January 25, p 26; Evidence of M. Hiller, Transcript, November 9, 2020, pp 19–20.

64 Evidence of M. Chiu, Transcript, January 21, 2021; Evidence of W. Soo, Transcript, February 9, 2021, pp 24–25.

65 Exhibit 1040, Lang #2.

It also includes evidence that Parq Vancouver hired Mr. Duff prior to the opening of the new casino, specifically to develop its VIP program.[66]

However, the bulk of the evidence related to service provider efforts to enhance VIP gaming focused on Great Canadian and, in particular, the River Rock Casino. From the earliest days of the River Rock, Great Canadian was focused on the expansion of high-limit gaming at the casino. As Mr. Duff explained in his evidence, the transition from the old Richmond Casino to the River Rock was akin to going from "a card room to … a casino"[67] and from its earliest days, the River Rock included dedicated VIP space,[68] initially offering both baccarat and blackjack,[69] but with the blackjack space soon repurposed for baccarat due to customer demand.[70]

Almost immediately after the River Rock opened, and despite the incorporation of VIP facilities into the initial design of the casino, Great Canadian began to develop plans to attract more VIP play, including international patrons. Between 2004 and 2007, Mr. Soo was directed to develop two proposals for premium international table games programs.[71] A report prepared in furtherance of the first of these two proposals defined the targeted market as follows:[72]

> The Premium Table Game Player market consists of a finite group of affluent gamblers with the financial means to wager substantial sums of money on games of chance. They are serviced by casinos in a number of markets, including Asia, Australia, and Las Vegas. The game preferences for these players are table games, Blackjack, Roulette but internationally, the primary game is Baccarat.
>
> A Premium Table Game Player is defined for the purposes of this report as an avid, experienced table game player with the ability and inclination to consistently make bets of US$500 and greater. This means the player is capable of losing to the casino, on any given visit, US$25,000 or more. [The] Premium Table Game Baccarat Player [market] is dominated by players of Asian descent, place of origin, or influence.
>
> The primary target market for River Rock's [Premium Table Game Player] program is financially successful and upwardly mobile Asian gamers whose game of choice is Baccarat. These players may be found among (i) those Asians traveling from or to countries in the Pacific Rim (primarily Hong Kong, Taiwan and The People's Republic of China) and (ii) those Asians who reside in the Greater Vancouver Area.

66 Evidence of R. Duff, Transcript, January 25, pp 4–5.

67 Ibid, p 20.

68 Ibid, pp 22–23.

69 Ibid, pp 22–23.

70 Ibid, p 23.

71 Exhibit 559, Soo #1, paras 34–59.

72 Ibid, exhibit C.

This report was prepared by a Nevada-based consulting firm retained by Great Canadian to advise on the elements required to support the kind of high-limit VIP play sought by Great Canadian.[73] As discussed in Chapter 10, the report made clear that the pursuit of international VIP table games play in the absence of adequate cash alternatives, particularly the availability of credit, would contribute to risks of "loan sharking" and money laundering:[74]

> While each element of the product mix is important, the availability of credit is one of the critical factors when building a premium table game player program. International currency laws as well as heightened suspicions in this post 9/11 era precludes gamers from traveling with large sums of cash. It is simply inappropriate to expect an international traveler to carry in excess of $25,000 in cash for gambling purposes. The gamer not only exposes himself to possible confrontations with customs authorities, he is exposing himself to theft or currency confiscation. Therefore, BCLC and River Rock must establish some form of credit that will allow premium table game players to access a sufficient amount of money to gamble with during their visits. Credit issuance also significantly reduces the potential for criminal activities such as loan sharking or money laundering to occur.

The proposals developed at that time by Mr. Soo were not directly implemented due, at least in part, to a lack of support from BCLC.[75] However, neither this lack of support nor the warning about money laundering discussed above dissuaded Great Canadian from continuing to pursue high-limit VIP gaming, despite the industry's continued reliance on cash. These efforts included the continued expansion and development of VIP space and services at the River Rock,[76] and permitting gaming up to maximum limits permitted by BCLC, despite Great Canadian's discretion to impose limits below those allowed by the BC Lottery Corporation.[77]

Through the report referred to above, Great Canadian had early notice that the pursuit of international VIP play in the absence of adequate cash alternatives would elevate the risk of money laundering facing the casinos it operated. Given the centrality of cash in the industry at this time, Great Canadian must have known that these steps would increase the volume of cash entering the River Rock. Mr. Ennis, Mr. Duff, and Mr. Soo all agreed in their evidence that this was a likely outcome of these changes.[78] Despite the predictability

73 Ibid, exhibit C.

74 Ibid, exhibit C.

75 Ibid, para 49, exhibit D.

76 Evidence of R. Duff, Transcript, January 25, 2021, pp 22–25; Evidence of W. Soo, Transcript, February 9, 2021, pp 33–37, 54–68; Exhibit 559, Soo #1, paras 60–74; Evidence of M. Hiller, Transcript, November 9, 2020, pp 19–20.

77 Evidence of W. Soo, Transcript, February 9, 2021, pp 46–48; Evidence of R. Duff, Transcript, January 25, 2021, p 31; Evidence of P. Ennis, Transcript, February 3, 2021, pp 118–20.

78 Evidence of P. Ennis, Transcript, February 3, 2021, pp 116, 119; Evidence of R. Duff, Transcript, January 25, 2021, pp 29–30; Evidence of W. Soo, Transcript, February 9, 2021, pp 37–39.

of this outcome, it does not appear that this elevated risk of money laundering was given any serious consideration in determining whether to take these steps.[79]

By 2014, as the volume of suspicious cash entering industry approached its apex, some within Great Canadian were continuing to push for even greater levels of VIP gaming, the obvious effect of which would have been to elevate even further the amount of suspicious cash entering the River Rock. In that year, a proposal to further expand and enhance VIP offerings at the River Rock was developed within Great Canadian.[80] Documents produced in October 2014 reveal that concerns about money laundering were not a deterrent to the further expansion of VIP offerings, but that the desire for this expansion was motivated in part by an interest in capitalizing on anti-corruption and anti–money laundering initiatives in other parts of the world by attracting players no longer able or willing to play in China and the United States because of such measures.[81] The following two paragraphs were included under the heading "Global Implications" within this proposal:[82]

> China Central Government's anti-corruption and flight capital campaign will escalate in 2015 thus discouraging and diverting a fair portion of VIP Baccarat play from Macau to River Rock Casino. It is widely believed that campaign scrutiny will ramp up when findings are completed and reported back to Beijing in 2015 …
>
> The United States' campaign against illicit money laundering (American Justice Department, U.S. Treasury Department and FinCEN) will continue to intensify its investigation into the governance and ethical practices of Las Vegas gaming companies operating in Macau (Wynn, Sands and MGM). [People's Republic of China] VIPs will encounter more restrictions to access funds for gaming in Macau and Las Vegas, reducing their desire to frequent these destinations and diverting their play to River Rock Casino …

I acknowledge that current and former representatives of Great Canadian denied this interpretation of these passages.[83] In my view, however, their denial is incongruous with the clear meaning of the passage reproduced above, and I find that the intention of these proposals was to highlight the prospect of attracting gamblers who wished to avoid anti-corruption and anti–money laundering initiatives in other jurisdictions.

This proposal was implemented, at least in part.[84] That this proposal even came forward at this time and that it was not immediately rejected principally for ethical reasons or out of a desire not to exacerbate the rampant criminal activity already

79 Evidence of R. Duff, Transcript, January 25, 2021, pp 30–34; Evidence of P. Ennis, Transcript, February 3, 2021, pp 117–20; Evidence of W. Soo, Transcript, February 9, 2021, pp 42–45.

80 Exhibit 559, Soo #1, paras 75–79 and exhibit J, K.

81 Ibid, exhibit J, K.

82 Ibid, exhibit J.

83 Evidence of W. Soo, Transcript, February 9, 2021, pp 57–68; Evidence of T. Doyle, Transcript, February 9, 2021, pp 119–32.

84 Evidence of W. Soo, Transcript, February 9, 2021, pp 54–57.

present at the River Rock is a telling indicator of how little concern there was within Great Canadian about this issue at that time.

This proposal was only the latest in a long history of efforts to drive VIP gambling at the River Rock to greater and greater heights, through the expansion and enhancement of VIP space and by allowing gaming up to maximum betting limits permitted by BCLC. Over time, due in part to these decisions, VIP play at the River Rock steadily grew[85] and, along with it, the volume of cash accepted by the casino.[86] As discussed previously, the volume and appearance of this cash should have made clear to any reasonable observer the likelihood that it was the proceeds of crime. Yet there seemed to be no consideration within Great Canadian of whether there was a need to retreat from – or at least stop expanding – VIP gaming for this reason.[87] In this sense, it is clear, in my view, that the actions of service providers, particularly Great Canadian, contributed to money laundering in the province's casinos by pushing the expansion of VIP gaming to new heights in the absence of adequate cash alternatives and, in doing so, encouraging VIP patrons to bring greater and greater volumes of cash into the River Rock and other casinos.

Service Provider Revenue Considerations

The third mechanism by which the actions of service providers contributed to the growth and perpetuation of money laundering in the province's gaming industry was by impressing upon BCLC the need for caution around anti–money laundering measures in order to minimize the impact on revenue. The record before me contains references to a number of incidents in which service providers, implicitly or explicitly, expressed concerns to BCLC and its staff that actions taken to address money laundering in the industry would have a negative impact on service provider revenue. It is clear as well that these expressions of concern found their mark and did, at times, cause BCLC to limit its anti–money laundering efforts.

While most of the evidence related to this issue is, again, focused on the River Rock Casino, there is some evidence that this dynamic was not entirely limited to one casino or service provider. A representative of Parq Vancouver, for example, expressed concerns about the revenue impact of the cash conditions program in an email to Brad Desmarais, who has held multiple executive roles with BCLC, in 2015.[88] Daryl Tottenham, BCLC's manager of anti–money laundering programs, gave evidence of his awareness of such concerns from multiple service providers during the time that he was stationed at the Starlight Casino.[89]

85 Evidence of R. Duff, Transcript, January 25, 2021, pp 22–23, 25–26; Exhibit 559, Soo #1, para 65.

86 Evidence of R. Duff, Transcript, January 25, 2021, pp 8–9; Evidence of W. Soo, Transcript, February 9, 2021, pp 7–8.

87 Evidence of R. Duff, Transcript, January 25, 2021, pp 30–34; Evidence of P. Ennis, Transcript, February 3, pp 117–20; Evidence of W. Soo, Transcript, February 9, 2021, pp 42–45.

88 Exhibit 505, Lightbody #1, para 94 and exhibit 29; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 141–42; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 109–11.

89 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 15–18.

However, perhaps unsurprisingly given the concentration of this issue at the River Rock, much of the evidence of service provider concern about BCLC's anti–money laundering measures arose from that casino. This evidence spans a number of years and involves individuals at multiple levels of the two organizations. It includes, for example, Mr. Duff's forceful expression of his concerns about player bans[90] and his resistance to then BCLC investigator Ross Alderson's efforts to direct that a high-risk transaction be reversed and to interview patrons involved in suspicious activity[91] as well as concerns that emanated from Great Canadian on multiple occasions about the impact of player interviews on Great Canadian's relationships with players.[92] This evidence also includes concerns about the revenue impact of BCLC actions expressed by Mr. Ennis to Mr. Alderson,[93] and complaints from the CEO of Great Canadian to Mr. Lightbody about the cash conditions program.[94]

It is clear that the expression of these concerns had their desired effect. In some instances, the impact of these complaints on anti–money laundering measures is direct and obvious. Mr. Duff's advocacy appears to have led to the rescinding of patron barrings in 2009[95] and eventually persuaded former BCLC investigator Michael Hiller that patrons using the services of cash facilitators should not be barred from casinos.[96] I am not so convinced, and believe that barring patrons who used the services of cash facilitators could have been highly effective in reducing the volume of illicit funds accepted at the River Rock. However, it seems clear that Mr. Duff's intervention changed both Mr. Hiller's perspective and his actions.[97] Similarly, complaints from Great Canadian arising from Mr. Alderson's efforts to interview patrons in 2012 led to a direction from Terry Towns, then BCLC's vice-president, corporate security and compliance, to then-BCLC investigators Mr. Alderson, Stone Lee, and Steve Beeksma that they were not to speak to patrons.[98] This limited the actions that BCLC investigators could take to investigate suspicious transactions and prohibited a measure that could have assisted in gathering information about, and perhaps even deterring, those transactions. In other instances, the impact is not so clear. Mr. Lightbody, for example,

90 Evidence of M. Hiller, Transcript, November 9, 2020, pp 72–77, 80–88; Evidence of R. Duff, Transcript, January 25, 2021, pp 40–44; Exhibit 87, S. Lee #1, para 35.

91 Exhibit 87, S. Lee #1, paras 36–38 and exhibits A, B, C; Evidence of R. Alderson, Transcript, September 9, 2021, pp 17–20; Beeksma #1, exhibits H, I, J; Evidence of R. Duff, Transcript, January 25, 2021, pp 44–49.

92 Evidence of P. Ennis, Transcript, February 3, 2021, pp 105–10; Evidence of D. Tottenham, Transcript, November 5, 2020, pp 6–8 and November 10, 2020, pp 92–97; Exhibit 148, Tottenham #1, paras 83, 227; Exhibit 126, Email from John Karlovcec to Patrick Ennis, re Meeting to Discuss Protocol for Approaching VIP Players (October 17, 2014).

93 Evidence of D. Tottenham, Transcript, November 5, 2020, pp 6–7; Exhibit 148, Tottenham #1, para 227.

94 Exhibit 505, Lightbody #1, para 95, exhibit 30; Evidence of J. Lightbody, Transcript, January 29, 2021, p 127; Evidence of B. Desmarais, February 1, 2021, pp 143–44.

95 Evidence of M. Hiller, Transcript, November 9, 2020, pp 72–75.

96 Ibid, p 83.

97 Ibid, p 83.

98 Exhibit 78, Beeksma #1, para 66; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 53–57; Exhibit 87, S. Lee #1, paras 39–40; Evidence of S. Lee, Transcript, October 27, 2021, pp 25–28; Exhibit 148, Tottenham #1, paras 29–30; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 19–24; Evidence of R. Alderson, Transcript, September 9, 2021, pp 19–23, 164–65.

testified that he took no action to limit the cash conditions program in response to complaints from the CEO of Great Canadian about the potential impact of the program.[99]

The significance of this regular drumbeat of complaints and expressions of concern, however, is not, in my view, limited to direct reactions to specific complaints. Rather, I find that these communications kept the impact of anti–money laundering measures on service provider revenue front of mind for BCLC as it wrestled with the question of how to respond to these transactions. In turn, they motivated BCLC generally to approach this issue more timidly than it otherwise might have. Mr. Tottenham, for example, candidly acknowledged in his evidence that concern for service provider revenue was a factor in the actions that BCLC chose to take in response to suspicious transactions in casinos:[100]

> Q Was one of the reasons that you did not introduce the blanket source of cash rule early on because of the feedback you were getting from individuals like David Zhu and Patrick Ennis at the River Rock that the sourced-cash conditions were impacting their business?
>
> A No, it wasn't based on that. I mean, that is a factor that we considered in terms of the impact we were going to have on the industry overall. Not specifically River Rock. It's the impact it would have on if we, as an example, chose a period in early 2015 and just put a blanket 10,000 or more you had to have a receipt and dropped it on the entire industry, that would have a huge impact on the casino industry in British Columbia. So we had to kind of – we had to work towards building a program to get there, ultimately to get where we wanted to go. And it had to be accepted by obviously the service providers and the patrons along the way. So we had to work within our means to make it logical and to be able to defend it.
>
> Q When you say it would have a huge impact on the industry, what you mean is it would have a negative impact on the revenue generated by that industry; is that correct?
>
> A Absolutely. For the service providers it absolutely would have. And it's out of the norm too. You have to understand that when we're looking at our environment, there is no other environment in Canada and anywhere in North America that I'm aware of that operates at that level. If you go down to Vegas or you go to other casinos across Canada, there is no requirement when you come in with a small amount of cash and have to provide receipts and show where that cash came from before you can buy in. I mean, we are a very unique province with regards to the rules that we have in play.

99 Exhibit 505, Lightbody #1, para 95; Evidence of J. Lightbody, Transcript, January 29, 2021, pp 126–27.

100 Evidence of D. Tottenham, Transcript, November 5, 2020, pp 4–6.

> Q It would have had a big impact on revenue, but would it also have had a big impact on the money laundering risk?
>
> A It – in terms of the cash – and again, money laundering was not our concern in the primary sense of what money laundering is within the casino. We were looking at suspicious cash proceeds of crime source of funds angle. That was our concern. Yes, it would have had a very dramatic impact on that at the time. Essentially it would have gotten us very quickly to the point where we eventually have gotten to.

As will be discussed later in this chapter, this attitude is also evident in BCLC's internal reactions to external recommendations and directions that it take further actions to address suspicious cash. On multiple occasions, BCLC responded to recommendations that it take more aggressive action, including broad requirements for proof of the source of funds used in large cash transactions or caps on the amount of cash that could be used in a single transaction, by raising the prospect of revenue losses or negative reactions from service providers.[101]

In this sense, I am satisfied that the actions of service providers, most notably, but not exclusively, Great Canadian, contributed to money laundering in the gaming industry in this way. In some instances, these communications led to clear and direct responses that limited anti–money laundering measures, and generally they exerted a moderating force on BCLC action in this regard. This is not meant to suggest, however, that service providers are responsible for BCLC's failure to implement appropriate measures to address suspicious cash in the industry. This is not so. BCLC always had the option of disregarding these concerns and the responsibility to take appropriate action despite them. Responsibility for failing to do so, as is discussed at length later in this chapter, is appropriately borne by BCLC itself. The purpose of the present discussion is only to acknowledge that one of the contributing factors to this failure seems to have been the actual and anticipated reactions of service providers to more aggressive measures.

Contribution of Actions of Service Providers in Context

The conclusion that the actions of service providers contributed to the growth and perpetuation of money laundering in the gaming industry should not be confused with a finding that they were primarily or even substantially responsible for this

101 See, for example, Evidence of R. Alderson, Transcript, September 9, 2021, p 22 and Transcript, September 10, 2021, pp 56–60, 187–91; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 27–29, 98, 112–16, 119–66 and Transcript, November 10, 2020, pp 33–39; Evidence of B. Smith, Transcript, February 4, 2021, pp 119–23; Exhibit 538, Email to Bud Smith from Jim Lightbody re Letter to Minister Re AML (October 24, 2015), with attachment [Lightbody Email October 2015]; Evidence of J. Karlovcec, Transcript, October 30, 2020 p 59; Exhibit 148, Tottenham #1, exhibit 7; Evidence of M. Graydon, Transcript, February 11, 2021, pp 69–73; Exhibit 511, Emails from Bill McCrea re BCLC Money Management Material (July 8, 2009), with attachment [McCrea Email 2009]; Exhibit 490, Kroeker #1, exhibit 51.

problem. In order to fully understand the nature and extent to which the actions of service providers contributed to the growth and perpetuation of money laundering, it is necessary to consider these actions in the context of the role played by service providers in the industry. While this context does not change the fact that these actions contributed to the problem, it does, in my view, assist in explaining these actions and makes clear that primary responsibility lies elsewhere.

There are four factors that are relevant to this discussion. The first is the relationship between service providers and each of BCLC and GPEB and the proper roles of each organization within the gaming industry. The second is the limits of the reach of service provider actions to the casinos that they were responsible for operating. The third is the disadvantaged informational position of service providers relative to BCLC and GPEB. The fourth is the fundamentally different objectives of service providers as private, profit-seeking businesses, as compared to BCLC as a Crown corporation and GPEB as a branch of the provincial government. Each is discussed in turn below.

Role and Responsibility of Service Providers in BC's Gaming Industry

While their direct role in the day-to-day operation of British Columbia casinos would seem to provide service providers with a high degree of control over activity in the province's casinos, the evidence before me reveals that the normal role of service providers in the province's gaming industry was, and remains, far more constrained than might appear at first impression. As is discussed later in this chapter, BCLC's "conduct and manage" mandate requires that it serve as the "operating mind" of lottery schemes in the province (aside from those operated by charities)[102] and the operational services agreements under which service providers work make clear that BCLC maintains a high degree of control over how service providers operate casinos.[103] This, alongside evidence given by service provider employees as to their understanding of their role in the industry,[104] makes clear that in the gaming industry, service providers are very much "policy takers" expected to faithfully execute the directions of BCLC, but with no significant role in autonomously developing policies and procedures themselves.

This is particularly so with respect to anti–money laundering measures. In addition to its conduct and manage mandate[105] and the level of control granted to BCLC by operational services agreements,[106] BCLC's status as a Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)-reporting entity further limits the role of service providers in combatting money laundering. The proper role of service providers

102 *Great Canadian Casino C Ltd. v Surrey (City of)* (1999), 53 BCLR (3d) 379, 1998 CanLII 2894, paras 66–69, aff'd 1999 BCCA 619.

103 Exhibit 572, Services Agreement 2005; Exhibit 76, OR: BCLC Standards and Service Agreements.

104 Exhibit 560, Doyle #1, para 16; Evidence of T. Doyle, Transcript, February 9, 2021, p 102–5 and Transcript, February 10, 2021, pp 82–84.

105 *Gaming Control Act*, s 7.

106 Exhibit 572, Services Agreement 2005; Exhibit 76, OR: BCLC Standards and Service Agreements.

in this regard is clear: to identify and report suspicious activity to BCLC in order to enable the BC Lottery Corporation to report this activity to FINTRAC and take necessary additional steps to respond to money laundering risks.[107] In an industry with a properly functioning anti–money laundering regime, service providers would have reasonably expected that BCLC was reporting to FINTRAC as required, and that both BCLC and GPEB were taking other steps as needed to manage the risk of money laundering in the province's casinos. This does not absolve service providers of the responsibility at some point to take action in response to vast sums of suspicious cash, likely to be of criminal origin, in the casinos that they were responsible for operating. However, given their role in the industry, BCLC and GPEB should have taken action long before the need for service providers to do so arose. Service providers should never have been put in the position of needing to respond to serious money laundering activity in the absence of clear direction from BCLC or GPEB.

Given the distinct role of service providers relative to BCLC and GPEB, I note that it would be reasonable for service providers to assume that they are not privy to all of the information available to BCLC and GPEB or to all of the actions taken by these two organizations in response to money laundering risks. This does not mean that it would be reasonable for service providers to assume that BCLC and GPEB had the matter in hand regardless of the activity they were observing in the casinos that they operated, but it does offer some explanation as to why service providers may have been reluctant or slow to act as the money laundering crisis grew. While service providers had the information necessary to recognize the problem and some capacity to act beyond their optimal role, they would have known that both BCLC and GPEB were better positioned to respond to the growing crisis and were primarily responsible for doing so. In short, while service providers could have taken action to respond to rising volumes of illicit funds flowing into casinos, primary responsibility for doing so did not rest with them.

Service Provider Record of Compliance

Had service providers received appropriate direction to respond to the increasing suspicious transactions in the casinos that they operated, there is little reason to doubt that they would have responded effectively to that direction. It is evident from the record before me that service providers were largely compliant with directions they received and, in this regard, performed their proper role in the gaming industry's anti–money laundering regime well. There were occasional lapses in compliance,[108] but these were largely isolated incidents that held no prospect of materially contributing to the growth of money laundering in the industry. The one example of sustained non-compliance in the record before me is that application of an improper $50,000 threshold for reporting suspicious transactions at the River Rock Casino, discussed in detail in Chapter 11.

107 Exhibit 560, Doyle #1, paras 17–26; Exhibit 517, Towns #1, para 27; Exhibit 490, Kroeker #1, paras 47–48; Exhibit 530, Ennis #1, paras 22–41.

108 Exhibit 78, Beeksma #1, para 41 and exhibit B; Exhibit 75, Overview Report: 2016 BCLC Voluntary Self-Declaration of Non-Compliance; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 31–35.

Given service providers' strong record of compliance, I have little doubt that, had BCLC or GPEB implemented adequate and appropriate anti–money laundering measures, service providers would have faithfully and effectively implemented them. Beginning in 2015, when BCLC implemented its formal cash conditions program and subsequent additional measures, up to and including the measures adopted following Dr. German's source-of-funds recommendation, service providers were, despite some initial "growing pains" associated with implementation of Dr. German's recommendation,[109] instrumental in the success of these measures through their effective compliance with BCLC's directions.

Limited instances of non-compliance notwithstanding, the evidence I heard suggests that service providers were highly capable in performing their proper role in the industry's anti–money laundering regime. They reported suspicious transactions effectively and otherwise complied with the policies and procedures established by BCLC and regulatory requirements imposed by GPEB. In some instances, service providers went above and beyond minimum requirements, including, for example, Great Canadian's efforts to exceed BCLC standards for surveillance camera coverage,[110] its anti–money laundering policy for non-gaming operations,[111] and its decision to refuse a subset of suspicious transactions beginning in 2016.[112] While there were additional actions that, in my view, service providers could have taken, most notably refusing suspicious transactions involving cash that was obviously the proceeds of crime, making the decision to do so would have far exceeded the normal role of service providers in combatting money laundering in the industry. That the question of whether service providers should have taken this step arises at all speaks as much to the failings of GPEB and BCLC as it does to the significance of the actions of service providers.

Limited Reach of Service Provider Action

An additional feature that distinguishes the role of service providers from that of BCLC and GPEB is that while the BC Lottery Corporation and the regulator have industry- and province-wide authority and responsibilities, the influence of service providers was – and remains – limited to the casinos that they operate. Whereas reforms enacted by BCLC or the exercise of GPEB's regulatory authority had the potential to affect activity in all casinos across the province, service providers could only take steps effective within the casinos that they operated, limiting the potential impact of any such action.

The limited reach of service providers restricts the potential impact of any actions they might have taken due to the likelihood that those actions would displace rather

109 Exhibit 505, Lightbody #1, paras 279–86; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 31–35, 122; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 80–84.

110 Exhibit 530, Ennis #1, para 39; Evidence of P. Ennis, Transcript, February 4, 2021, pp 8–11.

111 Exhibit 560, Doyle #1, paras 43–44 and exhibit E; Evidence of T. Doyle, Transcript, February 10, 2021, pp 114–15.

112 Exhibit 530, Ennis #1, paras 40, 55–66 and exhibit R; Evidence of P. Ennis, Transcript, February 3, 2021, pp 82, 145–52; Evidence of P. Ennis, Transcript, February 4, 2021, pp 17–19; Evidence of T. Doyle, Transcript, February 10, 2021, pp 15–16.

than prevent suspicious activity. Because suspicious activity was concentrated in the Lower Mainland, home to several casinos located within close proximity of one another, there were few barriers to patrons moving between the various gaming facilities in the region. The evidence before me reveals that VIP patrons did, in fact, patronize different facilities and that the loss of these patrons to their competitors was a source of concern for service providers. It is possible that a decision by one service provider to refuse a suspicious transaction would result in the same cash being accepted shortly thereafter by another casino a few kilometres away. There is evidence that this, in fact, did occur following a direction from BCLC that service providers refuse cash connected to cash drop-offs, requiring the BC Lottery Corporation to establish protocols to ensure that transactions refused at one casino were not subsequently accepted at another.[113]

I do not intend to suggest that this necessarily *explains* the failure of service providers to take action to address the obvious money laundering occurring in the casinos that they operated. However, in considering the extent to which service provider actions contributed to this problem, it is relevant, in my view, that despite their immediate responsibility for operating casinos, service providers acting on their own may ultimately have only been able to displace suspicious activity to their competitors. This limited effect, considered alongside the role of service providers in the industry and the apparent absence of any indication to service providers from BCLC or GPEB that there was a need for action, offers further insight into why service providers may not have taken what, in retrospect, appear to be obvious steps in response to the illegal activity in the casinos they were responsible for operating.

Information Available to Service Providers

The limited reach of service providers affected not only their capacity to respond to money laundering in the gaming industry, but also their ability to understand the nature and scale of this problem. Whereas BCLC and GPEB had an industry- and province-wide view of what was occurring in British Columbia's casinos, service providers had insight only into suspicious activity in the facilities that they operated.

The concentration of suspicious activity at the River Rock Casino is of particular relevance in considering the impact of the actions taken, or not taken, by Gateway Inc., Gateway Limited, Paragon, and Parq Vancouver. While it is clear that suspicious activity took place at casinos operated by each of these service providers, it is unlikely that any of them were aware of the full extent of such activity taking place at the River Rock or how activity at their own casinos may have fit into broader, province-wide trends. As such, the true scale of the crisis – and the urgency of the need for action – may not have been as readily apparent to these service providers as it was, or at least should have been, to BCLC, GPEB and, to an extent, Great Canadian, which did not have access to

113 Exhibit 148, Tottenham #1, paras 40–43 and exhibit 4; Evidence of R. Kroeker, Transcript, January 26, 2021, pp 68–69; Exhibit 490, Kroeker #1, para 90 and exhibit 23; Evidence of P. Ennis, Transcript, February 4, 2021, pp 33, 35–36.

information from other service providers, but which would have had a clear view of the epicentre of the crisis at the River Rock.[114]

Just as they would not have had access to information from their competitors that was available to BCLC or GPEB, service providers, including Great Canadian, would not have had access to other information available to the BC Lottery Corporation and the regulator. Information obtained from law enforcement is of particular note, with the E-Pirate investigation offering a significant example. It is obvious that learning of the initial results of the E-Pirate investigation had a profound impact on BCLC and GPEB. Service providers were not privy to this information. This was appropriate, given the sensitivity of the investigation, but it means that, at this time, service providers were operating without this additional insight into the sources of the cash being accepted by the casinos they operated.

Service Providers as Private, Profit-Seeking Businesses

A final factor relevant to consideration of the contribution of the actions of service providers to the growth and perpetuation of money laundering in the gaming industry is their status as private, profit-seeking businesses. I use the word "private" in this context not to indicate that these businesses were privately owned, as opposed to publicly-traded, but to distinguish them from public entities, including branches of government like GPEB, or Crown corporations like BCLC. Unlike GPEB and BCLC, service providers did not have a mandate to act in the public interest. Their objective was – and remains – to generate returns for their owners or shareholders.

Again, this does not absolve service providers of the responsibility, at some point, to respond to obvious criminal activity occurring in the facilities that they managed. It does, however, further distinguish their position from those of BCLC and GPEB, both of which, as discussed below, have clear mandates to operate in the public interest. In my view, this further illustrates the distinct position of service providers in the gaming industry and underscores that it was BCLC and GPEB, not service providers, that bore primary responsibility for addressing money laundering in the province's gaming industry.

Conclusion

Given their direct involvement in the day-to-day operation of the province's casinos, there is little doubt that service provider staff were well aware of the suspicious activity occurring in the casinos that they operated and that service providers had the capacity to take action to limit that activity within those casinos. It is clear as well that service providers participated in the development of this problem through their involvement in the growth of high-limit VIP gaming, and that concerns about service provider revenue limited BCLC's actions to respond to the money laundering

114 Exhibit 482, Cuglietta #1, pp 11–17; Exhibit 145, Barber #1, para 12; Evidence of M. Hiller, Transcript, November 9, 2020, p 13; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 94–95; Evidence of S. Beeksma, Transcript, October 26, 2020, p 36; Exhibit 144, Ackles #3, exhibit D.

crisis that emerged in the gaming industry in the first half of the 2010s. As I discuss above, suspicious activity was not equally prevalent in the casinos of the Lower Mainland and, as such, the actions of different service providers did not contribute to money laundering in equal degree. However, it is clear that, to varying degrees commensurate with the extent of suspicious activity present in their casinos, the conduct of service providers did contribute to the growth and perpetuation of money laundering in the province's gaming industry and that there were actions available to service providers that would have assisted in ameliorating this problem.

This does not mean, however, that service providers bear primary responsibility for the growth and evolution of money laundering in the gaming industry. Rather, viewed in the context of their role in the industry, their limited reach and access to information and their lack of a public interest mandate, it is clear that their contribution to this problem pales in comparison to that of BCLC and GPEB. Despite their immediate engagement in the operation of the province's casinos, the role of service providers is primarily to execute the policies and procedures implemented by BCLC in accordance with the regulatory requirements of GPEB. While occasional instances of non-compliance with and resistance to BCLC anti–money laundering initiatives on the part of service provider representatives were unfortunate and counterproductive, the evidence before me indicates that service providers generally carried out their function of executing BCLC policies and procedures capably. I have no doubt that, had BCLC implemented appropriate anti–money laundering measures, or had GPEB imposed adequate regulatory requirements, service providers would have carried them out effectively. It is only because BCLC and GPEB did not do these things that the issue of actions taken – or not taken – by service providers arises at all.

Actions and Omissions of Law Enforcement

The role of law enforcement in combatting money laundering in British Columbia, including its response to illicit funds in the gaming industry, is addressed comprehensively in Part XI of this Report. However, given the unique and critical role of law enforcement in the growth and perpetuation of money laundering in the gaming industry, it is necessary to address it at least briefly here as well. It is clear, in my view, that the action and inaction of law enforcement did contribute to money laundering in the industry.

Unlike service providers, BCLC, and GPEB, law enforcement has no role in the operation of the province's casinos or in setting casino policies or procedures. Rather, the role of the police, of course, is to investigate possible criminal activity and disrupt and deter that activity through the arrest of those responsible. The evidence before me shows that, from early in the development of money laundering in the gaming industry, there was a pressing need for police intervention and that this need should have been – and indeed was – evident to law enforcement. Despite this necessity, efforts to investigate activity connected to money laundering in the province's casinos prior to 2015 were limited.

Limits of Law Enforcement Resources

The significance of law enforcement action and inaction in the development and perpetuation of money laundering in the gaming industry should be considered in the context of an understanding of the resources that were available to respond to this issue. The limited efforts on the part of police to investigate suspicious activity in casinos speaks, of course, to the decisions made by the law enforcement bodies in place at the time. It also gives rise to the question of whether sufficient law enforcement *resources* were available to respond to this issue. In my view, prior to 2016, the answer was "no."

I am far from the first to recognize that there was a significant enforcement gap prior to 2016. The view that greater law enforcement resources available to the gaming industry were required was first recognized in the late 1990s, in the form of a Treasury Board proposal to establish a gaming-focused policing unit, which was withdrawn due to unexpected legal developments.[115] The years that followed were characterized by a near constant stream of proposals and recommendations identifying the need for additional resources. Prior to 2010, these included requests for resources for a "casino crime" unit within the Richmond RCMP detachment[116] and proposals from Fred Pinnock and Wayne Holland, both of whom served as officers-in-charge of the Integrated Illegal Gaming Enforcement Team (IIGET), seeking additional resources for that unit.[117] Between 2010 and 2015, recognition of the need for greater law enforcement engagement in the gaming industry took the form of: discussions between Mr. Begg, the RCMP, and GPEB regarding a 40-person unit to be established within the Combined Forces Special Enforcement Unit (CFSEU);[118] Mr. Kroeker's 2011 report recommending the creation of a cross-agency task force;[119] a recommendation made in a 2014 report by Malysh Associates Consulting Inc. that "GPEB should consider establishing a police-accredited unit to provide policing services for the gaming industry";[120] and

115 Exhibit 77, Overview Report: Integrated Illegal Gaming Enforcement Team [OR: IIGET], Appendix D: October 1997 Treasury Board Submission: Illegal Gambling Enforcement Unit.

116 Evidence of W. Clapham, Transcript, October 27, 2020, pp 143–65 and Transcript, October 28, 2020, pp 11–12, 18–19; Exhibit 94, RCMP Briefing Note – Supt. Ward Clapham – Richmond RCMP Annual Reference Level Update; Exhibit 97, City of Richmond – Report to Committee (September 1, 2006); Exhibit 98, City of Richmond – Additional Level Request Form for Budget Year 2007; Exhibit 101, RCMP Memorandum to City of Richmond (06-12-11).

117 Exhibit 77, OR: IIGET, paras 32–43, 50–51, Appendix O, Business Case for the Expansion of Integrated Illegal Gaming Enforcement Team, Appendix Q, Business Case for the Formation of a Provincial Casino Enforcement/Intelligence Unit, Appendix S, "Building Capacity": Expansion of the Integrated Illegal Gaming Enforcement Team (IIGET); Evidence of F. Pinnock, Transcript, November 5, 2020, pp 96–98, 132–33; Exhibit 159, Integrated Illegal Gaming Enforcement Team (IIGET) – A Provincial Casino Enforcement – Intelligence Unit (June 27, 2007); Evidence of W. Holland, Transcript, December 2, 2020, pp 122–32.

118 Evidence of L. Vander Graaf, Transcript, November 13, 2020, paras 13–17; Evidence of K. Begg, Transcript, April 21, 2021, pp 51–57; Exhibit 181, Vander Graaf #1, para 131 and exhibit NN.

119 Exhibit 141 (previously marked as Exhibit B), Summary Review Anti–Money Laundering Measures at BC Gaming Facilities (February 2011) [Summary Review 2011], p 4.

120 Exhibit 181, Vander Graaf #1, exhibit CC.

recommendations from both Mr. Lightbody and GPEB in 2015 that ultimately led to the creation of the Joint Illegal Gaming Investigation Team (JIGIT).[121]

When JIGIT was established in 2016, its creation represented the long overdue fulfillment of a glaring enforcement gap identified repeatedly for nearly two decades. This gap meant that, for much of the history of the industry, and particularly after the disbanding of the RCMP Integrated Proceeds of Crime (IPOC) unit in 2012 (discussed in Chapter 39), no law enforcement unit effectively investigated suspicious transactions in the province's casinos, despite the apparent widespread consensus that such investigations were needed. This gap helped to shape the growing money laundering crisis by leaving the industry to manage the serious criminality afflicting British Columbia's casinos on its own. Whatever the failings of BCLC and GPEB, I accept that neither had the capacity or resources to undertake the sort of complex money laundering investigation called for by the activity evident in the province's casinos.

Reverting to the discussion of the supply and demand for illicit cash earlier in this chapter, the effect of this enforcement gap was that efforts to combat illicit funds in the gaming industry were limited to the demand side of the equation. As will be discussed in detail below, GPEB and BCLC had many avenues by which they could have endeavoured to reduce demand for illicit funds by limiting the use of unsourced cash to buy-in at the province's casinos. Limiting its supply, however, required complex investigation and enforcement activity outside of casino environments aimed at identifying where and from whom the cash originated. In the absence of engagement from law enforcement, there was simply no one to undertake this kind of action, leaving the gaming industry to contend with a substantial supply of illicit funds constantly ready to be delivered to Lower Mainland casino patrons.

Information Available to Law Enforcement

Turning to the actions of those law enforcement units that did exist, BCLC and GPEB made significant efforts to ensure that law enforcement had access to the information necessary to identify the growing presence of illicit cash evident in the gaming industry from early in its development. Beginning in or around 2004, under the leadership of Mr. Towns, BCLC began to forward the information contained in suspicious transaction reports submitted to FINTRAC to the RCMP IPOC unit as well as to local police of jurisdiction.[122] GPEB made similar efforts to report suspicious transactions to law enforcement[123] and began consulting with the IPOC unit regarding

121 Exhibit 505, Lightbody #1, exhibit 49; Exhibit 552, MOF Strategy Document, Gaming Policy and Enforcement Branch's Anti–Money Laundering Strategy Phase 3 (September 3, 2015) [MOF Strategy]; Evidence of M. de Jong, Transcript, April 23, 2021, pp 65–66, 99–100; Exhibit 902, Letter from Mike Morris re JIGIT (March 10, 2016) [Morris Letter]; Evidence of K. Ackles, Transcript, November 2, 2020, p 49.

122 Evidence of T. Towns, Transcript, January 29, 2021, pp 140–41; Exhibit 517, Towns #1, para 86.

123 Evidence of D. Dickson, Transcript, January 22, 2021, p 12; Evidence of R. Barber, Transcript, November 3, 2020, p 137; Evidence of J. Schalk, Transcript, January 22, 2021, p 137; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 158–61.

their specific concerns about suspicious transactions by 2008.[124] Given these efforts, it seems indisputable that the IPOC unit was well aware of the growing levels of suspicious activity taking place in casinos from the beginning of the evolution of that activity.

It is also clear, however, that law enforcement insight into this growing problem was not limited to what could be gleaned from reports forwarded by BCLC and GPEB. Rather, multiple law enforcement units outside of the IPOC unit independently identified criminality and suspicious activity connected to casinos as a growing threat. Between 2004 and 2007, the Richmond RCMP detachment sought resources to establish a "casino crime" unit dedicated to addressing increased criminal activity, including loan sharking and money laundering, connected to the newly constructed River Rock Casino, demonstrating an awareness of these issue.[125] Similarly, in 2007, during his tenure as officer-in-charge of IIGET, Mr. Pinnock was so concerned about growing illicit activity in legal casinos, including money laundering and "loan sharking," that he proposed the creation of a new integrated law enforcement unit dedicated to this issue.[126] Mr. Holland, who succeeded Mr. Pinnock, had similar concerns. He sought the expansion of IIGET, in part to enable the investigation of such activity, and directed the preparation of a threat assessment that identified this issue as a concern,[127] relying in part on another RCMP report from 2008 titled "Project Streak – Money Laundering in Casinos: A Canadian Perspective."[128] The 2008 report included the following passage about money laundering in British Columbia (and Ontario) casinos:[129]

> Launderers who use the casino industry to convert their illicit earnings usually visit more than one casino in the same area. Establishments of choice in Ontario include Casino Niagara, Casino Rama and Windsor Casino Limited. In British Columbia, the River Rock Casino Resort and Gateway Casino Burnaby are the preferred venues. Even though the RCMP has received various FINTRAC disclosures concerning the Casino de Montréal—the largest casino in Canada in terms of revenue— the number of suspicious transaction reports is minimal compared to establishments located in Ontario and British Columbia.

124 Evidence of J. Schalk, Transcript, January 22, 2021, pp 181–82.

125 Evidence of W. Clapham, Transcript, October 27, 2020, pp 143–63 and October 28, 2020, pp 11–12, 18–19; Exhibit 94, RCMP Briefing Note – Supt. Ward Clapham – Richmond RCMP Annual Reference Level Update; Exhibit 97, City of Richmond – Report to Committee (September 1, 2006); Exhibit 98, City of Richmond – Additional Level Request Form for Budget Year 2007; Exhibit 101, RCMP Memorandum to City of Richmond (06-12-11).

126 Evidence of F. Pinnock, Transcript, November 5, 2020, pp 97–98; Exhibit 77, OR: IIGET, paras 41–42; Exhibit 77, OR: IIGET, Appendix Q, Business Case for the Formation of a Provincial Casino Enforcement / Intelligence Unit.

127 Evidence of W. Holland, Transcript, December 2, 2020, pp 103–104 and 136–139; Exhibit 77, OR: IIGET, Appendix Y, Extent and Scope of Illegal Gaming in British Columbia 2005 to 2008.

128 Exhibit 77, OR: IIGET, Appendix X, Strategic Intelligence Assessment, "Project Streak – Money Laundering in Casinos: A Canadian Perspective" (2008).

129 Ibid.

Given the availability of this information to law enforcement, and particularly the RCMP, it is apparent that, even in the infancy of the rise of money laundering in British Columbia casinos, the police had the knowledge and information needed to identify that serious criminal activity had begun to infiltrate the province's gaming industry. Police were receiving detailed reports from BCLC and the regulator about suspicious activity occurring in the province's casinos, multiple senior RCMP members were seeking resources to respond to this problem, and the agency's own intelligence reports and threat assessments had identified money laundering in the province's casinos.

2010–2011 IPOC Unit Intelligence Probe

As discussed in detail in Chapter 39, the RCMP IPOC unit was among the law enforcement bodies that seemed to recognize the gravity of the problem brewing in the gaming industry. The IPOC unit had a clear mandate to investigate such activity and, in fact, commenced investigative action in response to these concerns. Specifically, in 2010, the unit, with the support of GPEB, commenced an intelligence probe into suspicious transactions occurring in the province's casinos.[130] While a definitive link to criminal activity was not made at this time, the results of this probe showed sufficient promise that, in January 2012, the team responsible developed an operational plan with the following two objectives:[131]

(1) to disrupt money laundering activity in and around Lower Mainland casinos (thereby disrupting the activities of organized crime groups within the province); and

(2) to work with stakeholders in the gaming industry to effect legislative and regulatory change and minimize and/or eliminate the need for wealthy foreign gamblers to access large amounts of local, criminally derived cash.

This operational plan was never put into effect. For reasons addressed in Chapter 39, the IPOC unit was disbanded before it had an opportunity to do so.[132] The plan was not taken up by any other law enforcement unit.

It is difficult to overstate the significance of the opportunity lost when this operational plan was abandoned. In my view, the objectives identified in this plan were precisely what was called for to respond to the suspicious activity in the province's casinos at the time. The results of the E-Pirate investigation, which commenced a little more than three years later, suggest that there was a real prospect that, had this earlier investigation continued, it may have established a link to serious criminality and disrupted the flow of illicit cash before it ever reached casino property, thus addressing the problem in its early stages and preventing the large-scale money laundering through

130 Evidence of B. Baxter, April 8, 2021, pp 27–30.

131 Exhibit 760, IPOC 2012; Evidence of C. Chrustie, Transcript, March 29, 2021, pp 49–54; Evidence of B. Baxter, Transcript, April 8, 2021, pp 86, 149–54.

132 Evidence of B. Baxter, Transcript, April 8, 2021, pp 89, 153–54.

casinos that occurred in the years that followed. Accordingly, the immediate, and perhaps most significant, impact of this investigation may have been the disruption of the supply of illicit funds to casino patrons through the seizure of those funds and the arrest of the individuals responsible.

It is important to recall as well that this operational plan was proposed precisely at a time when there was a lack of consensus among industry actors as to the significance of rising levels of suspicious cash in casinos. The GPEB investigation division was urging BCLC[133] as well as their superiors in GPEB[134] and in government,[135] to take urgent and decisive action but had, to that point, been unsuccessful in those efforts. Government had just received Mr. Kroeker's report[136] which, while recommending some improvements, indicated that the industry had appropriate anti–money laundering measures in place, likely providing some level of comfort to those in government responsible for the industry. Most significantly, beyond developing voluntary patron gaming fund accounts, BCLC was taking no significant action to reduce suspicious cash in the industry. Based on the evidence of multiple senior BCLC corporate security and compliance staff from the time, the source of this reluctance was, in large part, that law enforcement had not confirmed to BCLC a link between suspicious cash and criminal activity.[137]

In addition to directly disrupting the supply of illicit funds, a successful investigation confirming the criminal origins of the suspicious cash that was beginning to flood the province's casinos would almost certainly have shattered the illusions under which many industry actors were operating and prompted a meaningful response, commensurate with the gravity of the situation, from each. Such an outcome would have bolstered the arguments being made by the GPEB investigation division at that time and may well have persuaded GPEB's general manager, Doug Scott, himself an experienced police officer[138] who also viewed these

133 Exhibit 108, Letter from Derek Dickson re Loan Sharking / Suspicious Currency & Chip Passing (April 14, 2010) [Dickson Letter April 2010]; Exhibit 110, Letter from Derek Dickson re Money Laundering in Casinos (November 24, 2010) [Dickson Letter November 2010]; Exhibit 112, Schalk Letter February 2011; Exhibit 488, Letter from Joe Schalk re Suspicious Currency Transactions – Money Laundering Review Report (December 27, 2012) [Schalk Letter December 2012].

134 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 53–54, 67; Evidence of D. Scott, Transcript, February 8, 2021, pp 17–18; Evidence of D. Sturko, Transcript, January 28, 2021 p 120; Evidence of J. Mazure, Transcript, February 5, 2021, pp 8–11; Exhibit 144, Ackles #3, para 21; Exhibit 181, Vander Graaf #1, paras 37–41, 60–64, 82–84, 136–39 and exhibits G–R, X, Y, OO, PP; Evidence of D. Dickson, Transcript, January 22, 2021, pp 79–82. Evidence by J. Schalk, Transcript, January 22, 2021, 140–43, 149–52; Exhibit 557, Scott #1, paras 34–37; Exhibit 541, Mazure #1, para 53; Exhibit 507, Affidavit #1 of Derek Sturko, made on January 18, 2021 [Sturko #1], paras 92–96 and exhibit E.

135 Affidavit #1 of Larry Vander Graaf, made on November 8, 2020, paras 37, 74–76, 84, 132–35 and exhibits V, Z; Evidence of J. Schalk, Transcript, January 22, 2021, pp 140–43; Exhibit 527, Affidavit #1 of Sue Birge, made on February 1, 2021 [Birge #1], paras 30–43; Evidence of L. Wanamaker, Transcript, April 22, 2021 pp 6–8; Evidence of R. Coleman, Transcript, April 28, 2021, pp 110–13.

136 Exhibit 141, Summary Review 2011.

137 Exhibit 517, Towns #1, para 59; Evidence of T. Towns, Transcript, January 29, 2021, pp 145–48,165–68; Evidence of G. Friesen, Transcript, October 28, 2020, pp 57–58, 89–91, 145–46, 166–67 and Transcript, October 29, 2020, p 11; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 106–10, 126–27, 131–32.

138 Exhibit 557, Scott #1, paras 5–8.

transactions with suspicion,[139] that focusing on voluntary cash alternatives was not an appropriate or adequate response to the crisis emerging in the industry. It may have also convinced the provincial government that the conclusions expressed in Mr. Kroeker's report did not tell the whole story and that the gaming industry faced a serious money laundering problem despite the presence of controls that Mr. Kroeker suggested met or exceeded industry standards. Most crucially, law enforcement confirmation that funds being used in the province's casinos had criminal origins was *precisely* what those responsible for BCLC's anti–money laundering program claimed they required in order to take meaningful action at that time. As such, it seems likely that an investigative result providing this confirmation may have convinced BCLC of the need for more robust action.

Crucially, the operational plan developed by the IPOC unit suggests that some of these outcomes may have been possible even *without* a positive investigative result. The second objective set out above suggests that the unit intended to work with "stakeholders in the gaming industry" to "minimize and/or eliminate the need for wealthy foreign gamblers to access large amounts of local, criminally derived cash" through legislative and regulatory change.[140] It is difficult to imagine, even if the investigation had failed to produce a definitive link between criminal activity and the suspicious cash flooding the province's casinos, that BCLC, GPEB, and government would have failed to recognize the need for meaningful action in the face of advice directly from a law enforcement unit specializing in money laundering investigations that it needed to take action to minimize or eliminate this suspicious cash.

In this sense, the operational plan pointedly illustrates the significance of the decision to disband the IPOC unit and the failure of the RCMP to ensure that this investigation was taken up by another unit following IPOC's disbandment. In January 2012, at a time when rates of suspicious cash in the gaming industry were rapidly accelerating, the unit had identified in writing precisely what was required to respond to the problem. The plan not only held some realistic prospect of disrupting the source of suspicious cash through an investigation undertaken by officers with exactly the skills and expertise required, but also held real potential to spur government, GPEB, and BCLC to take action themselves to raise the industry's defences against this growing criminality. As I discuss in Chapter 39, I do not accept that the disbanding of the IPOC unit fully explains the failure to proceed with this operational plan, as there remained law enforcement units in the province capable of carrying out the investigation. It is clear, however, that this was its effect, and that in the period that followed, money laundering continued to flourish, largely unabated, for more than three years before any kind of comparable investigative effort was undertaken.

139 Ibid, paras 34–37.

140 Exhibit 760, IPOC 2012.

Law Enforcement Engagement Following Disbanding of IPOC

The January 2012 IPOC unit operational plan marked the last meaningful law enforcement engagement with the province's gaming industry until early 2015. Again, this was not for want of information, as BCLC and GPEB continued to forward detailed information to police. As discussed in Chapter 10, by 2014 suspicious activity in the industry had risen to the point where BCLC was urging CFSEU and other law enforcement units to commence an investigation of the sort proposed by IPOC in 2012.[141] Many months into this effort, Calvin Chrustie, then of the RCMP Federal Serious and Organized Crime unit agreed to devote some limited resources to surveillance focused on identifying the sources of cash used by casino patrons.[142]

In several days, taking place over the span of approximately three months, this surveillance confirmed the link between the suspicious cash flooding the gaming industry and organized crime.[143] In addition to the obvious disruption to the supply of illicit funds resulting from this successful investigation, the evidence before me makes clear the impact that this confirmation had on the gaming industry. It prompted BCLC to expand and accelerate its nascent cash conditions program, played a role in motivating the general manager of GPEB to seek government intervention to address suspicious cash in the industry, and assisted in motivating Mr. de Jong, then the minister responsible for gaming, to take the action he did in response, including the crucial decision to establish JIGIT.

Given how quickly the E-Pirate investigation was able to establish a link between suspicious cash accepted in casinos and criminality, and the observations of the officers involved in the earlier IPOC probe, it is likely that, had law enforcement meaningfully engaged with this issue earlier, the impact that E-Pirate had on both the supply of illicit funds to casino patrons and on the perspectives of both BCLC and the general manager of GPEB could have been achieved years earlier.

Conclusion

In light of the above discussion, it is clear to me that the actions and omissions of law enforcement significantly contributed to money laundering in the gaming industry prior to the E-Pirate investigation in 2015. Law enforcement had ample information upon which it could have acted to commence investigative and enforcement action,

141 Exhibit 148, Tottenham #1, paras 102–24; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 88–94, 118–19; Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 7–8, 19, 21–25; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 65–68, 79–80; Evidence of R. Alderson, Transcript, September 9, 2021, pp 125–26, 129–30, 140–41.

142 Exhibit 148, Tottenham #1, paras 124–25; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 119–20; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 118–20; Exhibit 522, Desmarais #1, para 76 and exhibit 53; Evidence of C. Chrustie, Transcript, March 29, 2021, pp 25–128.

143 Exhibit 522, Desmarais #1, exhibit 55; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 121–22; Evidence of R. Alderson, Transcript, September 9, 2021, pp 41–43; Evidence of C. Chrustie, Transcript, March 29, 2021, pp 126–31; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 59–61; Exhibit 587, Affidavit #1 of Joseph Emile Leonard Meilleur, made on February 9, 2021 [Meilleur], paras 81–83.

and it is clear that multiple law enforcement units recognized the need for such action. The IPOC unit went so far as to initiate an intelligence probe and develop an operational proposal aimed at both investigating the source of suspicious cash and encouraging regulatory and legislative changes to prevent its acceptance in casinos.

This operational plan held real promise to address the burgeoning money laundering crisis in the gaming industry. Regrettably, it was abandoned before it could be implemented when the IPOC unit was disbanded. Despite the continued efforts of GPEB and BCLC to provide information to law enforcement, no meaningful investigations were commenced until 2015, effectively leaving these two organizations to address serious criminality in the gaming industry on their own, without significant police involvement.

The obvious indicators of money laundering apparent in the industry beginning in or around 2008 called for meaningful law enforcement engagement. While, as discussed elsewhere in this Part, there was much that the industry and government could have done independently to reduce suspicious cash in the province's casinos, the engagement of law enforcement was crucial to a comprehensive response to the extensive money laundering that eventually came to afflict the industry. As such, the failure of law enforcement to seriously engage with this issue in the face of repeatedly being provided information identifying the problem prior to 2015 was a critical contributing factor to the growth and perpetuation of money laundering in the gaming industry.

Actions and Omissions of the BC Lottery Corporation

Commensurate with the role it plays in this province's gaming industry, the action – and inaction – of BCLC contributed significantly to the growth and perpetuation of money laundering in the gaming industry prior to 2018. While BCLC eventually came to implement meaningful measures that dramatically reduced suspicious transactions connected to money laundering, it could have – and in my view, should have – taken decisive action far earlier to stem the flow of illicit cash into the province's casinos and ultimately into government revenues.

As the rate at which suspicious cash in the province's casinos grew, BCLC had access to the information necessary to recognize the scale and urgency of the emerging money laundering crisis in the gaming industry. This access to information, and the control BCLC held over the industry, placed it in a unique position to address the risk of money laundering in the gaming industry and rid the province's casinos of illicit funds long before the problem peaked in 2014 and 2015. However, despite its insight into what was occurring in the industry, its control over the operation of the province's casinos and warnings from GPEB and its own staff, BCLC failed to take meaningful action to reduce the occurrence, or even slow the growth, of suspicious cash transactions in casinos in the Lower Mainland prior to 2015.

In 2015, BCLC began to take action to reduce the volume of suspicious cash accepted by casinos, most significantly through the formalization of the cash conditions

program and related measures. As this program expanded, it would eventually come to have a meaningful, but ultimately inadequate, impact on the rate of suspicious cash transactions and, consequently, money laundering, in the province's casinos. By 2015, when BCLC began to implement its formal cash conditions program, the rate at which illicit cash was entering the industry had reached a crisis point and BCLC had received positive confirmation from law enforcement that at least some of this cash was the proceeds of crime. In this context, the cash conditions program and related measures taken at this time were too little and far too late. Due to the initial narrow focus of these efforts and the slow pace at which they were implemented, very large, suspicious cash transactions remained at alarming levels for years following the formalization of the cash conditions program. It is clear, in my view, that the province's casinos continued to accept significant quantities of illicit funds until the implementation of new measures in response to Dr. German's recommendation source of funds recommendation in 2018.

Below I discuss the role played by BCLC's actions and omissions in the development and perpetuation of money laundering in the gaming industry. This discussion focuses on three time periods: the two periods identified above – prior to mid-2015 and from mid-2015 to early 2018 – and a third beginning in January 2018. This discussion concludes by identifying three factors that, in my view, contributed to BCLC's inadequate response throughout the first two time periods – an emphasis on preserving revenue, a lack of interest in perspectives and advice originating outside of the BC Lottery Corporation, and an inordinate focus on international best practices coupled with a corresponding unresponsiveness to local conditions.

BCLC bears significant responsibility for the extensive money laundering that occurred in the province's gaming industry between 2008 and 2018. The discussion that follows does not paint a flattering picture of its actions during this time period. However, it is important to acknowledge at the outset of this discussion that it focuses on past events that are not, in my view, reflective of the current state of affairs. Since 2018, BCLC has played an important role in devising and implementing measures that have substantially reduced both the occurrence and the risk of money laundering in British Columbia casinos. While identifying past failings that contributed to the growth of money laundering in the province is a central part of the Commission's mandate, it is, in my view, also important that the public not be misled into believing that past problems are reflective of current conditions where, as here, that is not the case.

Role of BCLC in the Province's Gaming Industry

In order to understand the role that BCLC's actions and inaction played in the occurrence of money laundering in the province's casinos, it is necessary to view those actions in the context of its place in the gaming industry. In my view, the centrality of BCLC in the industry heightens the significance of its actions, as its role makes clear that it not only had the ability to take decisive action, but also the responsibility to do so.

BCLC's ability to take action to prevent and respond to money laundering in the gaming industry is grounded in its access to information about suspicious activity in the industry along with its high degree of control over the operation of the province's casinos. In combination, these two factors put BCLC in a position to act decisively to stop and prevent money laundering. BCLC's responsibility to exercise its influence over the industry to address money laundering is grounded in its mandate, as a Crown corporation, to act in the public interest, which was clearly communicated to – and understood by – BCLC.

BCLC's Access to Information

BCLC's access to information is relevant to the role its actions played in contributing to money laundering in the gaming industry because it had significant insight into what was happening in the province's casinos throughout the time period in which I have found money laundering took place. Because of BCLC's responsibility to report to FINTRAC, it had access to reports of both large cash transactions and "unusual" financial transactions identified by service providers from gaming facilities across the province.[144] This information allowed BCLC to connect transactions that occurred at casinos operated by different service providers in a way that service providers, who had access only to reports emanating from casinos they operated, did not.[145]

The evidence before me indicates that these reports provided BCLC with information about a substantial volume of suspicious transactions. In 2016, for example, BCLC received 2,018 "unusual financial transaction" reports and 11,480 large cash transaction reports from the River Rock Casino alone.[146] While I do not suggest that reporting by the River Rock is representative of the volume of reporting by other casinos in the province, this provides some insight into the level of information available to BCLC. Of course, BCLC was not merely a passive recipient of the information contained in these reports. In about 2006, it began stationing its investigators in casinos, providing first-hand insight into day-to-day activity at these facilities.[147] The evidence before me reveals that BCLC's investigators made extensive efforts to further investigate "unusual" transactions reported by service providers to determine whether those transactions met the threshold for reporting to FINTRAC, including reviewing surveillance footage and speaking with casino staff.[148]

144 Exhibit 560, Doyle #1, paras 17–26; Exhibit 148, Tottenham #1, paras 8–9; Exhibit 78, Beeksma #1, para 44; S. Lee #1, para 26; Exhibit 166, Hiller #1, para 10; Exhibit 517, Towns #1, para 27; Exhibit 490, Kroeker #1, paras 47–48; Exhibit 530, Ennis #1, paras 22–41.

145 Exhibit 517, Towns #1, para 21; Evidence of T. Towns, Transcript, February 1, 2021, p 24; Exhibit 78, Beeksma #1, para 40; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 161–62.

146 Exhibit 560, Doyle #1, para 24.

147 Exhibit 517, Towns #1, para 40; Evidence of T. Towns, Transcript, February 1, 2021, pp 27–29; Evidence of P. Ennis, Transcript, February 4, 2021, pp 27–38; Exhibit 78, Beeksma #1, paras 27, 31, 32; Evidence of G. Friesen, Transcript, October 28, 2020, pp 37–38; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 81–82.

148 Exhibit 78, Beeksma #1, paras 38, 51; Exhibit 148, Tottenham #1, paras 8, 9 and exhibit 87; S. Lee #1, paras 26–27; Exhibit 166, Hiller #1, paras 11–20; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 35–37; Evidence of M. Hiller, Transcript, November 9, 2020, pp 5–6; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 44–45.

Over time, BCLC took additional steps to gain information about patrons active in British Columbia casinos. In 2013, BCLC formed an anti–money laundering unit and began to enhance due diligence performed on casino patrons.[149] In 2014, it entered into an information-sharing agreement with the RCMP that allowed law enforcement to share information with BCLC, further enhancing its level of insight into player backgrounds, the source of funds used in casinos, and risks to public safety.[150] In 2015, BCLC began a concerted effort to interview patrons connected with large cash transactions.[151]

BCLC's direct insight into day-to-day activity at casinos, its extensive review of transactions reported as unusual by service providers, its visibility into casino activity province-wide, and the additional information gleaned from due diligence efforts, information-sharing with the RCMP, and patron interviews ensured that BCLC had sufficient information to allow it to understand the nature and scale of the suspicious activity occurring in the province's casinos and to take action in response.

BCLC's Control over the Gaming Industry

In addition to its access to the information necessary to understand day-to-day activities occurring in the province's casinos, BCLC also had significant control over the operation of the industry, ensuring that it had the authority to take action in response to suspicious activity. Its degree of control is evident from the content of its "conduct and manage" mandate, the nature of its relationship with service providers, and from evidence of actual directions eventually issued by BCLC to service providers.

The *Gaming Control Act* designates BCLC as "responsible for the conduct and management of gaming on behalf of the government" and authorizes BCLC to "develop, undertake, organize, conduct, manage, and operate provincial gaming …"[152] The "conduct and manage" language mirrors that found in section 207(1) of the *Criminal Code*, RSC 1985, c C-46, the provision that exempts "lottery schemes" run by the government of a province from criminal prohibitions on gambling. The meaning of the phrase "conduct and manage" was considered by the British Columbia Supreme Court in *Great Canadian Casino C Ltd. v Surrey (City of)*,[153] which ultimately concluded that to have conduct and management of a "lottery scheme" requires an entity to act as the "operating mind" of the scheme.

149 Exhibit 522, Desmarais #1, paras 25, 36; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 53–54 and Transcript, November 10, 2020, pp 123–24; Exhibit 148, Tottenham #1, paras 76–78; Exhibit 78, Beeksma #1, paras 55–56; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 75–78; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 14, 20–22; Exhibit 505, Lightbody #1, paras 82–83.

150 Evidence of S. Beeksma, Transcript, October 26, 2020, p 148; Exhibit 522, Desmarais #1, para 26 and exhibits 6, 7; Evidence of B. Desmarais, Transcript February 2, 2021, p 43; Evidence of M. Hiller, Transcript, November 9, 2020, p 126; Exhibit 490, Kroeker #1, para 114.

151 Evidence of S. Beeksma, Transcript, October 26, 2020, pp 57–58, 150; Exhibit 148, Tottenham #1, para 140; Exhibit 87, S. Lee #1, paras 59–63; Exhibit 490, Kroeker #1, paras 96–105.

152 *Gaming Control Act*, s 7.

153 *Great Canadian Casino C Ltd. v Surrey (City of)* (1999), 53 BCLR (3d) 379, 1998 CanLII 2894 aff'd 1999 BCCA 619.

Insight into the extent of BCLC's control over the province's gaming industry is also found in the evidence of service provider staff who appeared before the Commission and in operational services agreements between BCLC and service providers.[154] In his evidence, Mr. Doyle described the obligations imposed on service providers by these agreements as follows:[155]

> The OSAs require Great Canadian to abide by all policies and directives of BCLC. The OSAs and BCLC's standards, policies, and procedures are detailed and prescriptive in what Great Canadian must do as a service provider, including with respect to AML compliance and reporting. BCLC regularly audits Great Canadian and also hires third party experts to conduct comprehensive audits.

As indicated in this excerpt of Mr. Doyle's evidence, the relationship between service providers and BCLC is governed by operational services agreements. The content of these agreements is generally consistent with Mr. Doyle's evidence and with BCLC serving as the "operating mind" of the lottery schemes offered in casinos. For example, in the operational services agreement that governed the relationship between BCLC and Great Canadian beginning in 2005, the relationship between the BC Lottery Corporation and Great Canadian is described as follows in Article 2.03:[156]

> The Service Provider acknowledges and agrees that the [BC Lottery] Corporation is solely responsible for the conduct, management and operation of all Casino Games in the Casino, in accordance with paragraph 207(1)(a) of the *Criminal Code (Canada)* and the *Gaming Control Act* (BC) and that the operational services to be supplied by the Service Provider under this Agreement are services authorized by paragraph 207(1)(g) of the *Criminal Code (Canada)*. The Service Provider acknowledges and agrees that the Service Provider shall have no authority and shall take no action which is in any manner inconsistent with the *Criminal Code (Canada)*, the *Gaming Control Act* (BC), any successor statute, the Casino Standards, Policies and Procedures or the Rules and Regulations respecting Lotteries and Gaming of the [BC Lottery] Corporation, as such respectively exist or are amended from time to time.

I note that BCLC entered into a new operational services agreement with respect to Great Canadian's operation of the River Rock Casino in June 2018[157] and into new agreements with service providers for the Starlight,[158] Grand Villa,[159] and Parq

154 Exhibit 572, Services Agreement 2005; Exhibit 76, OR: BCLC Standards and Service Agreements.

155 Exhibit 560, Doyle #1, para 16; Evidence of T. Doyle, Transcript, February 9, 2021, pp 102–5 and Transcript, February 10, 2021, pp 83–84.

156 Exhibit 572, Services Agreement 2005, p 4.

157 Exhibit 76, OR: BCLC Standards and Service Agreements, Appendix B, 2018 River Rock Casino Resort Operational Services Agreement.

158 Ibid, Appendix C, 2018 Starlight Casino Operational Services Agreement.

159 Ibid, Appendix D, 2018 Grand Villa Casino Operational Services Agreement.

Vancouver[160] casinos in the same year. These agreements each include provisions consistent with the one reproduced above.[161]

The extent to which the terms of the operational services agreements gave BCLC the capacity to control activity in the province's casinos, particularly with respect to suspicious transactions, is illustrated by the actions BCLC did ultimately take in this regard. As discussed in Chapter 11, these included the formalization of the cash conditions program in 2015 and its subsequent expansion,[162] a May 2016 directive requiring service providers to make source-of-funds inquiries of certain patrons,[163] an October 2016 directive requiring refusal of certain suspicious transactions,[164] and the "de-risking" of money services businesses in 2018.[165] Each of these measures was imposed on service providers by BCLC without formal direction from GPEB or the minister responsible for gaming. There was nothing of which I am aware that would have prevented BCLC from issuing these or more decisive directions years earlier.

I do not mean to suggest that BCLC had *carte blanche* to unilaterally impose any measure it chose on the gaming industry. There were actions that it sought to take but did not because of the intervention of or a lack of support from GPEB or government.[166] BCLC, for example, repeatedly sought to offer credit to patrons,[167] but could not obtain GPEB's formal approval,[168] which was required.[169] In addition, a proposal to set hard limits on the size of cash buy-ins was ultimately not implemented because Dr. German did not support it.[170] In other instances, BCLC implemented measures at the encouragement of or with modifications recommended by GPEB or

160 Ibid Appendix E, 2018 Parq Casino Operational Services Agreement.

161 Ibid, Appendix B, 2018 River Rock Casino Resort Operational Services Agreement, Article 3; Appendix C, 2018 Starlight Casino Operational Services Agreement, Article 3; Appendix D, 2018 Grand Villa Casino Operational Services Agreement, Article 3; Appendix E, 2018 Parq Casino Operational Services Agreement, Article 3.

162 Evidence of D. Tottenham, Transcript, November 10, 2020, pp 143–44; Evidence of R. Alderson, Transcript, September 9, 2021, pp 132–33; Exhibit 522, Desmarais #1, paras 38–55; Exhibit 78, Beeksma #1, paras 73–77; Exhibit 87, S. Lee #1, paras 58–63; Exhibit 505, Lightbody #1, para 93; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 140–41 and Transcript, February 2, 2021, pp 106–9, 160–61; Exhibit 490, Kroeker #1, paras 96–105.

163 Exhibit 148, Tottenham #1, para 149, exhibit 49; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 11–12.

164 Exhibit 148, Tottenham #1, paras 40–41, exhibit 4; Evidence of R. Kroeker, Transcript, January 26, 2021, pp 68–69; Exhibit 490, Kroeker #1, para 90; Evidence of P. Ennis, Transcript, February 4, 2021, pp 33 and 35–36.

165 Exhibit 505, Lightbody #1, paras 313–18; Exhibit 148, Tottenham #1, para 159, exhibit 54; Exhibit 490, Kroeker #1, paras 209–21; Evidence of D. Tottenham, Transcript, November 5, 2020, pp 26–27.

166 Exhibit 505, Lightbody #1, paras 298–312; Exhibit 522, Desmarais #1, paras 95–96; Exhibit 490, Kroeker #1, paras 92, 139–54, 196–208, 219 and exhibit 124; Exhibit 148, Tottenham #1, paras 175–81; Evidence of D. Tottenham, Transcript, November 5, 2020, pp 27–29 and Transcript, November 10, 2020, p 19.

167 Exhibit 505, Lightbody #1, paras 320–23 and exhibits 49, 167; Exhibit 490, Kroeker #1, paras 93, 139–44 and exhibit 62; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 32–33; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 104–6.

168 Exhibit 490, Kroeker #1, paras 93, 143–44.

169 Ibid, para 143.

170 Exhibit 505, Lightbody #1, paras 300, 303.

the responsible minister. Dr. German's source-of-funds recommendation, for example, was implemented at the urging of the minister[171] and the manner in which it was implemented was modified based on advice from GPEB.[172] However, despite these limitations and the practical need to consult, collaborate with, and advise other industry actors and government, it is clear to me that BCLC had a high degree of control over the operation of the gaming industry in this province, and that at all relevant times it had the authority – notwithstanding expectations to advise and consult with others – to implement the kind of meaningful measures it ultimately did adopt to stem the flow of suspicious cash into casinos.

BCLC's Public Interest Mandate

In addition to its high degree of control over how casinos operate, the role of BCLC in the gaming industry is also distinguishable from that of service providers by its obligation to act in the public interest. BCLC is not a private business that exists to pursue private profit; it is a Crown corporation created to serve the interests of the people of British Columbia.

BCLC's mandate, as set out in the *Gaming Control Act*,[173] focuses on the practical activities in which the Lottery Corporation may engage and does not directly address its responsibility to act in the public interest.[174] There is ample evidence before the Commission, however, that this responsibility was clearly communicated to BCLC and that it was well understood within the BC Lottery Corporation. BCLC's public interest mandate was repeatedly communicated in mandate letters and "shareholder's letters of expectations" from a succession of cabinet ministers with responsibility for the gaming portfolio.[175] In a mandate letter dated October 2, 2017, for example, Mr. Eby wrote:[176]

> Under the Gaming Control Act, BCLC is responsible for the conduct and management of gambling on behalf of government. As the new Minister responsible for gambling, I would like to confirm my expectation that BCLC, as a public sector organization and agent of government, will act in concert with government in the best interest of British Columbians. This means that BCLC will conduct its business in a manner that meets public expectations for social responsibility, public safety, and gambling integrity.

Mr. de Jong gave similar direction in a mandate letter that he issued during his tenure as minister responsible for gaming. The letter is undated, but was signed by the members of the BCLC board of directors on December 5, 2016:[177]

171 Ibid, paras 258–61.

172 Ibid, paras 261–76; Exhibit 490, Kroeker #1, para 229.

173 *Gaming Control Act*, s 7.

174 Ibid.

175 Exhibit 501, Overview Report: BCLC Shareholder's Letters of Expectations and Mandate Letters.

176 Ibid, Appendix 15.

177 Ibid, appendix 12.

> Government seeks to deliver legal gaming in a sound and responsible manner that promotes the integrity of gaming and public safety. Under the *Gaming Control Act,* the Lottery Corporation is responsible for the conduct and management of gaming on behalf of government. The Lottery Corporation is directed to conduct its business in a manner that meets government's expectations for social responsibility, public safety, gaming integrity, and projected financial targets. This is achieved through a culture of innovation and cost containment as well as commitment to responsible gambling and anti–money laundering efforts.

Prior to Mr. de Jong's tenure, Mr. Coleman similarly directed BCLC to conduct and manage gaming in the public interest, instructing that it:[178]

> Operate the gaming business within the social policy framework established by Government and in alignment with the [BC Lottery] Corporation's social responsibility objectives, building public trust and support in a manner consistent with the Province's Responsible Gambling Strategy. Continue to support the joint responsibility between the [BC Lottery] Corporation and the regulatory agency, the Gaming Policy and Enforcement Branch, for delivery of the Strategy.

While the precise language used in these letters changed from year to year, these examples are illustrative of the message delivered consistently to BCLC from successive responsible ministers serving in different governments.[179] This consistent messaging supports that BCLC received direct and repeated communication conveying government's expectation that it should act in the public interest.

The evidence further supports that this message was clearly received and understood by BCLC. This is evident in BCLC's annual reports,[180] as well as from the evidence given by senior BCLC representatives before the Commission.[181] The most recent annual report of the BC Lottery Corporation in evidence before the Commission is for the 2018–19 year.[182] On page six of the report, under the heading "Purpose of the Organization," BCLC's "mission" is described as being "to conduct and manage gambling in a socially responsible manner for the benefit of British Columbians." As with the mandate letters, the precise language used varied from year to year, but BCLC's annual reports have consistently described its purpose, mission, mandate, and/or values in similar terms.[183]

178 Ibid, appendix 8.

179 Ibid.

180 Exhibit 72, OR: BCLC Reports 1986–2018/19.

181 Evidence of J. Lightbody, Transcript, January 28, 2021, p 3; Evidence of J. Lightbody, Transcript, January 29, 2021, pp 39–41; Exhibit 505, Lightbody #1, paras 11, 63–64, and 210; Evidence of M. Graydon, Transcript, February 11, 2021, pp 8–9; Exhibit 576, Graydon #1, para 11; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 69–72 and Transcript, February 1, 2021, pp 79–80, 154–56; Evidence of B. Smith, Transcript, February 4, 2021, pp 177–79; Exhibit 522, Desmarais #1, para 82.

182 Exhibit 72, OR: BCLC Reports 1986–2018/19, Appendix GG, British Columbia Lottery Corporation, *BCLC Annual Report 2018–2019* (Kamloops: British Columbia Lottery Corporation, 2019).

183 Ibid.

The notion that BCLC was to conduct and manage gaming in a socially responsible manner for the benefit of the citizens of the province was acknowledged repeatedly in the evidence of witnesses including Mr. Smith[184] and BCLC's current and former senior executives, including former BCLC CEO Michael Graydon,[185] Mr. Desmarais, who joined BCLC in 2013 as its vice-president, corporate security and compliance, before going on to serve in other executive roles,[186] and Mr. Lightbody.[187] Each of these witnesses referred directly to BCLC's obligation to act "responsibly" or in a "socially responsible" manner or acknowledged that BCLC is responsible for safeguarding the "integrity" of gaming.

Mr. Lightbody, in particular, stressed that social responsibility was of central concern to BCLC and to him personally, testifying that BCLC "live[s] by the credo 'do the right thing.'"[188] He described BCLC's mandate to act in the public interest and his role as CEO in fulfilling that mandate, as follows:[189]

> I am aware that BCLC is mandated by the Province of British Columbia to conduct and manage the commercial gambling business in British Columbia in a socially responsible manner for the benefit of all British Columbians, that is, in a positive economic, social and environmental way. To that end, my responsibilities include:
>
> a. Responsibility for fostering a corporate culture that promotes ethical practices and encourages individual integrity and social responsibility; and
>
> b. Ensuring that all operations and activities of BCLC are conducted in accordance with laws and regulations, and BCLC's policies and practices, including its Standards of Ethical Business Conduct.
>
> I take pride in BCLC's social responsibility mandate and worked diligently through my tenure to help BCLC to fulfill this mandate. I am personally committed to social responsibility and this underpins my leadership approach and management to the organization, including in the area of money laundering. I am very concerned about the potential for money laundering in British Columbia and in the gaming sector in particular.

In light of this evidence, there can be no doubt that government clearly communicated the expectation that BCLC would conduct and manage gaming in the public interest and would do so in a socially responsible manner. This expectation was

184 Evidence of B. Smith, Transcript, February 4, 2021, 177–79.

185 Exhibit 576, Graydon #1, para 11; Evidence of M. Graydon, Transcript, February 11, 2021, pp 8–9.

186 Exhibit 522, Desmarais #1, para 82; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 79–80, 154–56 and Transcript, February 2, 2021, pp 69–72.

187 Exhibit 505, Lightbody #1, paras 11, 63–64, 210; Evidence of J. Lightbody, Transcript, January 28, 2021, p 3 and Transcript, January 29, 2021, pp 39–41.

188 Evidence of J. Lightbody, Transcript, January 29, 2021, p 40.

189 Exhibit 505, Lightbody #1, paras 63–64.

well understood by BCLC's senior leadership who, at least in principle, embraced this aspect of the BCLC's mandate and identified it as a central part of its mission.

Significance of BCLC's Role in the Gaming Industry

BCLC had access to detailed and timely information about suspicious activity taking place in casinos. It had significant control over how casinos were operated – including the authority to implement measures that would ultimately prove effective in reducing the flow of suspicious cash into casinos. BCLC also had the responsibility to conduct and manage gaming in the public interest and preserve the integrity of gaming. Based on these factors, the actions and inaction of BCLC had the potential to, and ultimately did, significantly affect the growth and evolution of money laundering in this province's gaming industry.

Contribution of BCLC's Actions to Money Laundering in BC's Gaming Industry

In assessing whether and how the actions of BCLC contributed to money laundering in this province's gaming industry, it is useful to consider its actions and inaction in three time periods – prior to the formalization of BCLC's cash conditions program in 2015, following the formalization of this program until the implementation of new measures in response to Dr. German's source-of-funds recommendation in January 2018, and following the implementation these measures. While it would be inaccurate to suggest that BCLC was taking no action to address the risk of money laundering in any of these time periods, in my view, the character of its efforts fundamentally changed in each of these periods, and it is necessary that they be considered independently.

BCLC's Actions Prior to Formalization of the Cash Conditions Program

Prior to the formalization of its cash conditions program in 2015, BCLC's actions – or more accurately, inaction – played a significant contributing role in the growth and perpetuation of money laundering in the province's casinos. Despite repeated warnings that casinos were accepting substantial amounts of illicit cash, and the identification of the Vancouver model money laundering typology as the likely method by which this cash was being laundered, BCLC failed to take meaningful steps to reduce suspicious transactions accepted by casinos during this time period. On the contrary, BCLC supported the expansion of gaming in a way that would inevitably increase the quantity of cash entering casinos. BCLC corporate security and compliance management recognized the risk associated with suspicious transactions, but nevertheless responded to these warnings by disputing that this activity was connected to money laundering and seeking to persuade BCLC staff and others outside the organization that there was no cause for concern. While BCLC did act during this period of time to enhance its anti–money laundering efforts, this action was not focused, and appears to have had minimal impact on, the flow of suspicious cash into the province's casinos.

Information Available to BCLC

BCLC had ample reason to be concerned about rising suspicious cash transactions in the province's casinos beginning in or around 2008. In Chapter 10, I described the nature of the suspicious transactions that occurred with growing frequency in casinos in the Lower Mainland and the alarm with which they were viewed by some BCLC investigators and GPEB investigation division personnel. Because of its responsibility to report to FINTRAC, BCLC had detailed knowledge of the nature and frequency of these transactions. BCLC had access to the large cash transaction and unusual financial transaction reports prepared by service provider staff.[190] Its investigators, located on site in casinos, were responsible for further investigating possible suspicious transactions,[191] ensuring that BCLC had access to detailed information about their size and frequency, the denominations used in such transactions, the manner in which cash was bundled and packaged and how it arrived at casinos. Given the evidence before the Commission regarding the features of these transactions and the prominent indicators that this cash was the proceeds of crime,[192] discussed in Chapter 13, it should have been abundantly clear to BCLC early in this time period that there was a very high risk that these transactions consisted of the proceeds of crime and that a serious money laundering problem was emerging in British Columbia's casinos. This *was* abundantly clear to others familiar with the details of these transactions, including members of the GPEB investigation division,[193] BCLC investigators,[194] and members of the RCMP IPOC unit, which undertook a probe of this activity beginning in 2010.[195]

190 Exhibit 560, Doyle #1, paras 17–26; Exhibit 148, Tottenham #1, paras 8–9; Exhibit 78, Beeksma #1, para 44; Exhibit 87, S. Lee #1, para 26; Exhibit 166, Hiller #1, para 10; Exhibit 517, Towns #1, para 27; Exhibit 490, Kroeker #1, paras 47–48; Exhibit 530, Ennis #1, paras 22–41.

191 Exhibit 78, Beeksma #1, paras 38, 43–44; Exhibit 148, Tottenham #1, paras 8–9; Exhibit 87, S. Lee #1, paras 26–27; Exhibit 166, Hiller #1, paras 11–20; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 36–37; Evidence of M. Hiller, Transcript, November 9, 2020, pp 5–6; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 44–45.

192 Evidence of D. Dickson, Transcript, January 22, 2021, p 6; Evidence of J. Schalk, Transcript, January 22, 2021, pp 111–14; Exhibit 166, Hiller #1, paras 58–59; Evidence of M. Hiller, Transcript, November 9, 2020, pp 8–9; Evidence of M. Graydon, Transcript, February 11, 2021, p 17; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 89–90; Evidence of K. Ackles, Transcript, November 2, 2020, pp 11–12, 174–75; Evidence of R. Barber, Transcript, November 3, 2020, pp 13–15, 97–100; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 46–47; Evidence of T. Doyle, Transcript, February 9, 2021, pp 183–84; Exhibit 145, Barber #1, paras 29–30; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 56, 114, 173; Exhibit 181, Vander Graaf #1, para 54; Evidence of M. Paddon, Transcript, April 14, 2021, pp 16–22.

193 Exhibit 507, Sturko #1, exhibit E; Exhibit 112, Schalk Letter February 2011; Exhibit 108, Dickson Letter April 2010; Exhibit 110, Dickson Letter November 2010; Evidence of K. Ackles, Transcript, November 2, 2020, pp 11–12, 174–75; Evidence of R. Barber, Transcript, November 3, 2020, pp 13–15, 97–100; Evidence of D. Dickson, Transcript, January 22, 2021, p 6; Evidence of J. Schalk, Transcript, January 22, 2021, pp 111–14; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 56, 114, 173; Exhibit 181, Vander Graaf #1, para 54; Exhibit 145, Barber #1, paras 29–30.

194 Evidence of G. Friesen, Transcript, October 28, 2020, pp 98–99; Evidence of R. Alderson, Transcript, September 9, 2021, pp 11–13, 117–18; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 4, 6, 9–10; Evidence of M. Hiller, Transcript, November 9, 2020, pp 7–12, 22–33; Exhibit 166, Hiller #1, para 58; Exhibit 78, Beeksma #1, para 52.

195 Evidence of B. Baxter, Transcript, April 8, 2021, pp 27, 29; Evidence of M. Paddon, Transcript, April 14, 2021, pp 16–17; Exhibit 760, IPOC 2012; Exhibit 759, Casino Summary & Proposal – IPOC (December 2011); Evidence of R. Coleman, Transcript, April 28, 2021, pp 132–33; Exhibit 181, Vander Graaf #1, exhibit G; Exhibit 110, Dickson Letter November 2010.

Even if, as inexplicably appears to be the case, this information was insufficient to convince BCLC of the emerging crisis in the province's casinos, the BC Lottery Corporation received repeated warnings and recommendations that ought to have put it on notice of the need for a decisive response. These warnings and recommendations came in a range of forms. In addition to media reporting on this issue, they included letters from the GPEB investigation division between 2010 and 2012,[196] which contained indications that law enforcement also had serious concerns about suspicious transactions in casinos.[197] Also, GPEB[198] and FINTRAC advised BCLC[199] that it needed to take additional steps to verify the source of funds used in large cash transactions. Finally, BCLC investigator and former RCMP officer Michael Hiller repeatedly expressed concerns regarding the origins of funds used in large cash transactions to his superiors.[200]

The timing and content of these warnings were discussed in detail earlier in this Report and I will not recount the evidence again here. However, I believe that it is important to note that these warnings not only contained general concern about the size and frequency of suspicious transactions and the appearance of the cash used in them, but also identified, with precision, the nature of the Vancouver model money laundering typology with which I have found those transactions were connected. In a February 28, 2011, letter addressed to BCLC manager of casino investigations Gord Friesen, for example, Mr. Schalk, then the senior director of investigations and regional operations for GPEB wrote:[201]

> Large quantities of $20.00 bill denominations will continue to be and are at present properly reported to the various authorities as "Suspicious Currency", both by the service provider and BCLC. Patrons using these large quantities of $20.00 currency buy-ins may not in some, certainly not all cases, be directly involved with or themselves be criminals. Regardless of whether they win or lose all of the money they buy in with, we believe, in many cases, patrons are at very least FACILITATING the transfer of and/or the laundering of proceeds of crime. Those proceeds may have started out 2 or 3 persons or groups removed from the patron using these instruments to play in the casino. Regardless, money is being laundered. The end user, the patron, MUST STILL pay back all of the monies he/she receives in order to facilitate his buy-in with $20.00 bills and for the person on the initial start of the facilitation process, the money is being laundered for him/her, through the use of the gaming venue. [Emphasis in original.]

196 Exhibit 108, Dickson Letter April 2010; Exhibit 112, Schalk Letter February 2011; Exhibit 488, Schalk Letter December 2012.

197 Exhibit 110, Dickson Letter November 2010; Exhibit 112, Schalk Letter February 2011.

198 Exhibit 181, Vander Graaf #1, para 116; Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 84–85; Exhibit 557, Scott #1, paras 73–74; Evidence of D. Scott, Transcript, February 8, 2021, pp 53–56.

199 Evidence of M. Graydon, Transcript, February 11, 2021, pp 75–76; Exhibit 578, Email from Byron Hodgkin to Michael Graydon re Fintrac audit (December 14, 2012) [Hodgkin Letter December 2012].

200 Evidence of M. Hiller, Transcript, November 9, 2020, pp 22–33; Exhibit 166, Hiller #1, paras 35–42, 74–75, 84, 89.

201 Exhibit 112, Schalk Letter February 2011.

BCLC received similar warnings internally from Mr. Hiller. Mr. Hiller testified that, based in part on his law enforcement experience, he believed from early on in his tenure that VIP patrons were being provided with cash by criminal organizations and repaying those funds in China.[202] He recalled that he communicated this theory to his superiors and believed they were well aware of his beliefs.[203] Mr. Hiller received additional information in 2014 that went some length toward confirming his suspicions. He described this information in his evidence as follows:[204]

> In 2014, a confidential source whom I considered to be a reliable source of information told me that major loan sharks were operating in BC casinos, and that the vast majority of VIPs get the money they gamble with in Lower Mainland casinos from loan sharks. I was told that these loans, plus a commission, are repaid in China, and that good customers pay a lower commission. Immediately upon learning this information, I prepared an iTrak incident report detailing what I had been told and brought the incident report to the attention of Mr. Friesen and Mr. Karlovcec.
>
> Later on, I would advise others at BCLC about this incident report, including Mr. Alderson, Mr. Sweeney, Mr. Desmarais, and Mr. Kroeker.

These warnings and recommendations should not have been necessary. Based on reports received from service providers and the efforts of its investigators alone, BCLC had ample basis to recognize the need for urgent and decisive action to address money laundering in the province's casinos. That BCLC was also receiving these warnings and recommendations ought to have been more than sufficient to persuade it that it was not responding appropriately to the information already in its possession. BCLC should have been spurred toward meaningful action to address the obvious indicators that money was being laundered through the gaming industry. Unfortunately, as is discussed below, these warnings failed to prompt the action that was obviously called for in the circumstances.

BCLC Reaction and Response

While it does not appear that the warnings and recommendations issued by GPEB, Mr. Hiller and others fell entirely on deaf ears, they did not result in any meaningful action on the part of BCLC to address the identified risks prior to 2015. Instead, BCLC seems to have remained entrenched in the untenable position that it did not need to take action to respond to the obviously suspicious activity taking place in the province's gaming industry, a view it sought to impress upon GPEB and its own staff.

Multiple former managers of BCLC's corporate security and compliance unit gave evidence that they were also of the view that rising large cash transactions in the province's casinos were cause for concern. Mr. Towns, Mr. Desmarais, Mr. Friesen, and John Karlovcec, Mr. Friesen's former assistant manager, all acknowledged that

202 Evidence of M. Hiller, Transcript, November 9, 2020, pp 22–33.

203 Ibid, pp 23–33; Exhibit 166, Hiller #1, paras 35–42, 74–75, 84, 89.

204 Exhibit 166, Hiller #1, para 74.

these transactions were highly suspicious and that there was a risk that the cash used in them was the proceeds of crime.[205] Mr. Friesen's suspicion was so great, in fact, that he acknowledged in his testimony that they warranted law enforcement investigation, describing the action he would have liked to take in response to these suspicious transactions, had he been in the position to do so:[206]

> I would like to have been a peace officer for the province. I would like to … have had the ability to investigate proceeds of crime and its source. I would like to have been able to execute warrants, mount surveillance teams and determine the origins of cash and who was responsible, and ultimately hopefully prosecute. That's what I'd like to have done.

Mr. Friesen was not the only one within BCLC during this period whose suspicions rose to the level where they believed that a police investigation was warranted. Mr. Desmarais's concern about the cash being used in casinos grew to the point that, by 2014, under his direction, BCLC began to urge law enforcement agencies, including CFSEU, the Real Time Intelligence Centre, former members of the IPOC unit working with the Criminal Intelligence Service British Columbia / Yukon Territory, the Richmond RCMP and the RCMP Federal Serious and Organized Crime unit, to begin investigating the sources of cash relied on by casino patrons.[207]

Based on this evidence, it seems clear that these senior members of BCLC's corporate security and compliance staff *agreed*, at least to some extent, with the concerns expressed by members of GPEB and Mr. Hiller that the growing large cash transactions taking place in the province's casinos were highly suspicious and that there was a real risk that they were being conducted with the proceeds of crime. Given their apparent receptiveness to these views, it is difficult to understand BCLC's continued acceptance of these funds. Rather than acknowledge that the warnings were justified, BCLC repeatedly responded to these warnings during this period with dismissal.

In particular, BCLC was dismissive of these concerns in its communications to GPEB and its own staff. In addition to failing to implement recommendations put forward by GPEB, BCLC was skeptical of GPEB's concerns in its communications with the Branch.[208] In a 2011 letter, for example, GPEB expressed concern about a patron who had bought-in with $3,111,040 in cash, including $2,657,940 in $20 bills, in the span of approximately

205 Evidence of T. Towns, Transcript, January 29, 2021, pp 145–47, 151–52, 160–61, 167; Exhibit 517, Towns #1, para 59; Exhibit 522, Desmarais #1, paras 30, 35; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 73–74, 87, 90, 97, 102–3; Evidence of G. Friesen, Transcript, October 28, 2020, pp 57–58, 87–88, 98, 97–100, 132–33, 140–41; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 99, 109, 118, 126, 132.

206 Evidence of G. Friesen, Transcript, October 28, 2020, p 100.

207 Exhibit 148, Tottenham #1, paras 102–24; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 88–94, 118–19; Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 7–8, 19, 21–25; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 65–68, 79–80; Evidence of R. Alderson, Transcript, September 9, 2021, pp 129–31, 141.

208 Exhibit 111, Karlovcec Letter December 2010; Evidence of D. Dickson, Transcript, January 22, 2021, pp 35–38, 95–97; Evidence of J. Schalk, Transcript, January 22, 2021, pp 143–45; Exhibit 576, Affidavit #1 of Michael Graydon, made on February 8, 2021, exhibit D; Exhibit 557, Scott #1, paras 49-51 and exhibits 18, 19.

one month.[209] BCLC responded by advising that, based on the patron's "history of play; his betting strategy; the fact he [had] requested only one verified win cheque during the dates in question; his win/loss ratio, and the fact that he owns a coal mine and commercial real estate firm" the patron did "not meet the criteria that would indicate he [was] actively laundering money in British Columbia casinos." There was no acknowledgment in this letter that the activity was highly suspicious, nor that there was a risk that the patron was buying-in with the proceeds of crime, even if he was not, himself, motivated to launder money.[210]

BCLC delivered similar messages in its communications to its own staff. Despite the acknowledgment by the leadership of BCLC's corporate security and compliance unit that there was a real risk that the suspicious cash prevalent in British Columbia casinos was the proceeds of crime, BCLC seems to have been intent on persuading its staff that money laundering was not a concern in their industry. Mr. Desmarais, for example, wrote multiple articles in BCLC's internal newsletter, the *Yak* in 2013 and 2014 that downplayed the risk of money laundering in casinos. A May 2013 article sought to dispel the "myth" that "money laundering [was] rampant" in the province's casinos by arguing that casinos were not a convenient place to launder money and by providing alternative explanations for large cash transactions.[211] A subsequent article written by Mr. Desmarais in September of the same year suggested that it was erroneous to associate large volumes of cash with organized crime.[212] Finally, in November 2014, Mr. Desmarais wrote a two-part article titled "Setting the Record Straight on Money Laundering in BC Casinos" disputing media reports about money laundering and suggesting that money laundering was unlikely to occur in casinos if patrons were not issued cheques or money orders.[213] Each of these articles post-dated GPEB's identification to BCLC of the Vancouver model. In my view, Mr. Desmarais's 2014 article is of particular note as, by this point, BCLC had grown so concerned about suspicious cash transactions that it had been attempting to motivate law enforcement to commence an investigation into suspicious transactions occurring in casinos for months.[214] These efforts are very difficult to reconcile with the message presented to BCLC staff in this article.

Messages similar to Mr. Desmarais's were conveyed to BCLC staff through presentations by a journalist arranged by BCLC. The journalist advanced alternative

209 Exhibit 110, Dickson Letter November 2010.

210 Exhibit 111, Karlovcec Letter December 2010.

211 Exhibit 166, Hiller #1, para 86, exhibit S; Exhibit 522, Desmarais #1, para 63, exhibit 37; Evidence of M. Hiller, Transcript, November 9, 2020, pp 57–59; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 75–78 and Transcript, February 2, 2021, pp 9–14, 152–53.

212 Exhibit 522, Desmarais #1, para 64, exhibit 38; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 78–80 and Transcript, February 2, 2021, pp 9–14, 152–53.

213 Exhibit 522, Desmarais #1, para 65 and exhibits 39, 40; Exhibit 166, Hiller #1, para 86 and exhibit T; Evidence of M. Hiller, Transcript, November 9, 2020, pp 59–62; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 9–14, 152–53.

214 Exhibit 148, Tottenham #1, paras 102–24; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 88–94, 118; Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 7–8, 19, 21–25; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 65–68, 79–80; Evidence of R. Alderson, Transcript, September 9, 2021, pp 125–26, 129–30, 140–41.

theories regarding potential sources of the cash being used in large cash buy-ins.[215] Mr. Hiller testified that on two occasions in 2013, he attended such presentations arranged by BCLC.[216] Mr. Hiller described the first presentation as follows in his affidavit:[217]

> I attended a presentation by [the journalist] on February 20, 2013. This presentation was held in a boardroom at BCLC's Vancouver office, at one of the monthly investigator meetings, which all BCLC casino investigators attended. I recall that Mr. Friesen introduced [the journalist]. I believe Mr. Karlovcec was also in attendance, but I cannot recall if Mr. Towns attended. While I don't have notes of the content of this presentation, I recall that it was related to cash entering Canada through the Vancouver airport and that [the journalist] suggested that this may be the source of the cash coming into Lower Mainland casinos.

In his affidavit, Mr. Hiller discussed the efforts he made to verify the contents of the presentation[218] and confront the presenter with contrary information.[219] Mr. Hiller described the second presentation as an "expanded version" of the first.[220]

In his evidence, Mr. Hiller also expressed concerns about an earlier event in which Mr. Graydon, then BCLC's CEO, gave a speech downplaying concerns about money laundering reported in the media.[221] Mr. Hiller described his concerns about this speech as follows:[222]

> I recall a speech made by Michael Graydon, who was then BCLC's CEO, at an annual meeting of BCLC legal, investigation, and compliance staff on December 4, 2012. In his speech, Mr. Graydon expressed his disagreement with the way the media was portraying the issue of money laundering in casinos. While I agreed with Mr. Graydon that the media's portrayal of the issuance of verified win cheques was inaccurate, I noted that Mr. Graydon did not comment further on the reports of bags of cash coming in to casinos. I had hoped he would address these reports because, without further clarification, my impression was that he was implying that the reporting on the bags of cash was wrong.

Mr. Hiller went on to describe raising his frustrations with this speech with Mr. Towns, but that Mr. Towns disputed that patrons could be laundering money if they

215 Exhibit 166, Hiller #1, paras 77–82 and exhibits P, Q; Evidence of M. Hiller, Transcript, November 9, 2020, pp 54–57.

216 Exhibit 166, Hiller #1, paras 77–82.

217 Ibid, para 77.

218 Ibid, paras 78–80.

219 Ibid, para 79.

220 Ibid, para 81.

221 Ibid, para 83.

222 Ibid.

put their funds at risk and, typically, lost them.[223] In response, Mr. Hiller again voiced his belief to Mr. Towns that these patrons were being supplied with illicit funds by organized crime.[224] Mr. Towns disagreed.[225]

Inadequacy of BCLC Action

It is not the case that BCLC did nothing to prevent money laundering in its casinos prior to 2015. Throughout this time period, BCLC continued to report suspicious transactions to FINTRAC, GPEB, and directly to law enforcement.[226] It also implemented enhancements to its anti–money laundering program, including development of new cash alternatives intended to reduce the industry's reliance on cash;[227] removal and banning of cash facilitators from casinos;[228] technological enhancements;[229] banning of members of criminal organizations identified to BCLC by police;[230] enhancement of training for service provider staff;[231] creation of new, anti–money laundering focused positions within BCLC;[232] development of a "high-risk patron" list;[233] creation of an anti–money laundering unit;[234] and completion of an information-sharing agreement with the RCMP.[235]

What BCLC did not do and what, in my view, was clearly called for in the circumstances, was to impose measures aimed directly at stopping the flow of suspicious cash into casinos. Some of the measures identified above likely had some impact on suspicious cash transactions, but it must have been apparent that none were meaningfully stemming the flow of suspicious cash, which was increasing year after year. While there is some evidence before me that cash transactions would be refused in highly suspicious

223 Ibid, para 84.

224 Ibid.

225 Ibid.

226 Exhibit 517, Towns #1, para 62; Evidence of G. Friesen, Transcript, October 29, 2020, p 42–43; Exhibit 148, Tottenham #1, paras 46, 56, 64; Evidence of J. Karlovcec, Transcript, October 30, 2020, p 178.

227 Exhibit 517, Towns #1, paras 90–104, 115–31; Evidence of J. Lightbody, Transcript, January 29, 2021, pp 2, 114–15; Evidence of T. Towns, Transcript, January 29, 2021, p 144 and Transcript, February 1, 2021, pp 7–8, 11–12; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 5, 14–16; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 127–28.

228 Exhibit 517, Towns #1, para 54; Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 155–56; Exhibit 166, Hiller #1, paras 58, 71; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 34–35; Exhibit 78, Beeksma #1, para 33.

229 Exhibit 517, Towns #1, para 132.

230 Ibid, para 38; Exhibit 148, Tottenham #1, para 106; Exhibit 522, Desmarais #1, para 72 and exhibit 46.

231 Exhibit 517, Towns #1, para 133; Exhibit 1045, Affidavit #3 of Cathy Cuglietta, made on August 31, 2021; February 9, 2021; Exhibit 530, Ennis #1, exhibit A.

232 Ibid, para 134.

233 Ibid, para 137.

234 Exhibit 522, Desmarais #1, para 25; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 53–54; Evidence of D. Tottenham, Transcript, November 10, 2020, pp 123–24; Exhibit 148, Tottenham #1, paras 74–78; Exhibit 78, Beeksma #1, para 55; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 75–77; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 14, 20–21; Exhibit 505, Lightbody #1, para 82.

235 Evidence of S. Beeksma, Transcript, October 26, 2020, p 148; Exhibit 522, Desmarais #1, para 26; Evidence of B. Desmarais, Transcript, February 2, 2021, p 43; Evidence of M. Hiller, Transcript, November 9, 2020, p 126; Exhibit 490, Kroeker #1, para 114.

circumstances – such as where cash was burned or had blood or white powder on it[236] – these appear to have been isolated exceptions to the general practice of accepting cash buy-ins regardless of their size, character, or method by which cash arrived at the casino. Prior to the formalization of the cash conditions program in 2015 (and the prior placement of two patrons on cash conditions in late 2014 and early 2015), BCLC imposed no significant measures focused on eliminating or reducing suspicious cash transactions, or even verifying the legitimacy of the funds used in such transactions.

In fact, rather than take action to address the problem, BCLC took steps that exacerbated it by repeatedly increasing bet limits until 2014.[237] In light of the obviously suspicious nature of cash transactions occurring with growing regularity in the province's casinos and the serious concerns expressed by multiple parties as to the source of the funds being used to gamble in the province's casinos, it is difficult to understand how BCLC could have thought it appropriate to permit betting at higher and higher levels and, in doing so, increasing the risk of money laundering by facilitating the use of ever larger amounts of cash in the province's casinos.

By the spring of 2014, Mr. Desmarais's suspicions about cash entering the province's casinos had grown so great that he and those under his direction approached CFSEU in the hope of persuading it to commence an investigation into the source of funds used by casino patrons.[238] When it became apparent that CFSEU was not going to investigate, BCLC approached a succession of other law enforcement units[239] before the RCMP Federal Serious and Organized Crime Unit finally agreed to undertake surveillance in February 2015.[240] BCLC's persistence in seeking law enforcement engagement is commendable, and the difficulty it encountered in doing so is concerning. What is also troubling about these efforts, however, is that even though BCLC's concerns about suspicious transactions had grown to the point where it was urging any law enforcement unit that would listen to commence an investigation into the funds used by casino patrons, BCLC *continued to accept the cash that was the focus of its suspicions*. BCLC did not place a single patron on cash conditions until November 2014,[241] several months after it first approached CFSEU, and did not expand the program beyond two patrons until August 2015, more than a year after this initial overture.[242] How BCLC could have been

236 Evidence of T. Towns, Transcript, January 29, 2021, p 151.

237 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 8–14; Exhibit 505, Lightbody #1, paras 40–56 and exhibit 22.

238 Exhibit 148, Tottenham #1, paras 102–18; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 65–68; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 88–89; Exhibit 522, Desmarais #1, para 70; Evidence of R. Alderson, Transcript, September 9, 2021, p 125.

239 Exhibit 148, Tottenham #1, paras 118–22.

240 Ibid, paras 124–25; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 119–20; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 118–20; Exhibit 522, Desmarais #1, para 76; Evidence of C. Chrustie, Transcript, March 29, 2021, pp 62–66.

241 Evidence of D. Tottenham, Transcript, November 4, 2020, pp 80–82; Exhibit 148, Tottenham #1, para 79.

242 Exhibit 148, Tottenham #1, paras 79–83; Exhibit 522, Desmarais #1, para 39 and exhibits 11 and 12; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 80–82, 117–18 and Transcript, November 10, 2020, pp 85–86; Evidence of R. Alderson, Transcript, September 9, 2021, p 133; Evidence of S. Beeksma, Transcript, October 26, 2020, p 80.

so convinced that these funds were of criminal origin that they required urgent police attention and yet thought it appropriate to permit casino patrons to continue to use them to gamble is incomprehensible.

BCLC's failure to ensure that casinos ceased accepting this suspicious cash came despite the receipt of a myriad of recommendations as to how this might be accomplished, primarily from GPEB. There is no one single measure that was the only adequate solution to this problem and that BCLC was required to implement. Put simply, based on the information available to BCLC and the warnings it had received from multiple sources, it simply had to stop accepting this highly suspicious cash. It is possible that this could have been accomplished through limits on the size of cash transactions, through a requirement that patrons provide proof of the legitimate source of their funds or through other measures. BCLC did not fall short because it failed to implement one of these measures in particular, it fell short because it implemented none of them and, in failing to do so, allowed money laundering in the province's gaming industry to flourish unabated.

Explanations for Inaction

Representatives of BCLC put forward at the time, and in evidence before me, two explanations for its inaction during this time period. The first of these was that because patrons were putting their money at risk and often losing, they could not have been laundering money.[243] The second was that BCLC required proof that suspicious funds were the proceeds of crime before it could take action.[244] Neither of these explanations withstand scrutiny.

Patrons Were Putting Funds at Risk and Losing

The notion that suspicious cash transactions could not amount to money laundering because patrons were putting their funds at risk and often losing was advanced by BCLC in response to warnings from GPEB and in its communications with its own staff.[245] As outlined above, however, senior members of BCLC's corporate security and compliance unit *did* recognize that there was a real risk that the cash used in these transactions was the proceeds of crime.[246] Further, GPEB and Mr. Hiller explained to BCLC precisely how

243 Evidence of T. Towns, Transcript, January 29, 2021, pp 147–49 and 166; Exhibit 166, Hiller #1, para 84; Exhibit 111, Karlovcec Letter December 2010; Exhibit 522, Desmarais #1, exhibit 37; Exhibit 78, Beeksma #1, para 53; Evidence of S. Beeksma, Transcript, October 26, 2020, p 75; Evidence of G. Friesen, Transcript October 29, 2020, p 4; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 105–6, 111–12 and Transcript, October 30, 2020, pp 196–97; Evidence of M. Hiller, Transcript, November 9, 2020, pp 27–29; Exhibit 141, Summary Review 2011, p 3.

244 Exhibit 517, Towns #1, para 59; Evidence of T. Towns, Transcript, January 29, 2021, pp 145–47, 165–66; Evidence of G. Friesen, Transcript, October 28, 2020, pp 57–58, 89–91, 145–46, 166–67 and Transcript, October 29, 2020, p 11; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 106–10, 118–19, 126–27, 131–32 and Transcript, October 30, 2020, pp 177–78.

245 Exhibit 166, Hiller #1, para 84; Exhibit 111, Karlovcec Letter December 2010; Exhibit 78, Beeksma #1, para 53; Evidence of S. Beeksma, Transcript, October 26, 2020, p 75; Evidence of M. Hiller, November 9, 2020, pp 27–29.

246 Evidence of T. Towns, Transcript, January 29, 2021, pp 145–47, 152, 160–61, 167; Exhibit 517, Towns #1, para 59; Exhibit 522, Desmarais #1, para 35; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 73, 87, 90, 97, 103; Evidence of G. Friesen, Transcript, October 28, 2020, pp 57–58, 88, 100, 132, 140–41; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 99, 109, 118, 126, 132.

this activity could be part of a money laundering scheme, even if the funds used to buy-in at the casino were lost.[247] This message was further reinforced in Mr. Kroeker's 2011 report, in which he provided the following advice to BCLC:[248]

> BCLC holds the view that gaming losses on the part of a patron provide evidence that the patron is not involved in money laundering or other related criminal activity. This interpretation of money laundering is not consistent with that of law enforcement or regulatory authorities. BCLC should better align its corporate view and staff training on what constitutes money laundering with that of enforcement agencies and the provisions of the relevant statutes.

The evidence of these senior BCLC security and compliance personnel suggests that BCLC viewed there to be a significant distinction between the simple acceptance of proceeds of crime and the laundering of those proceeds on site at a casino. BCLC clearly recognized there was a risk that these funds were the proceeds of crime but was prepared to tolerate this risk, provided it had some confidence that, if in fact they were, these illicit funds were not being laundered entirely within the four walls of a casino. Clearly, this is misguided. It is never acceptable for a Crown corporation to accept funds that it has strong reasons to suspect are the proceeds of crime. Whether those funds are being laundered on site at a casino or off, or whether they are being laundered at all, is distinct from the issue of whether it is appropriate that they be accepted.

Requirement of Proof that Funds Were Proceeds of Crime

The second justification offered for BCLC's inaction was that BCLC required proof that funds were the proceeds of crime before they could be refused – mere suspicion was not enough. This explanation was put forward in the evidence of several former BCLC employees with responsibility for management of the corporate security and compliance department, including Mr. Towns, Mr. Karlovcec, and Mr. Friesen.[249] Mr. Karlovcec's evidence included the following exchange:[250]

> A Well, as I've indicated, you can suspect all you want, but having the evidence or the proof is what was necessary for us to be able to do anything or the authorities to do anything, so ...
>
> ...
>
> Q What level of proof did you consider was required before you could take some action to restrict the flow of $20 bills into BC casinos?

247 Exhibit 112, Schalk Letter February 2011; Evidence of M. Hiller, Transcript, November 9, 2020, pp 22–23; Exhibit 166, Hiller #1, paras 74–75, 84.

248 Exhibit 141, Summary Review 2011, p 3.

249 Exhibit 517, Towns #1, para 59; Evidence of T. Towns, Transcript, January 29, 2021, pp 145–47,165–66; Evidence of G. Friesen, Transcript, October 28, 2020, pp 57–58, 89–91, 145–46, 166–67 and Transcript, October 29, 2020, p 11; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 106–10, 118–19, 126–27, 131–32 and Transcript, October 30, 2020, pp 177–78.

250 Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 108–9.

> A Well, there was – all we had was cash. We had no idea the source of the cash or where it was coming from, so again, I think it would be difficult to start approaching patrons that are known that have been identified and start challenging people as to where that cash came from before accusing without any level of proof or evidence provided by a policing authority.
>
> Q You had your own suspicions that the money was proceeds of crime; correct?
>
> A It was suspicious for sure.

In my view, this explanation has no more validity than the one discussed above regarding patrons putting their funds at risk and often losing. The fallacy of this view, and perhaps some indication as to its source, is exposed in the following excerpt from the evidence of Mr. Friesen, given in response to a question as to whether he and his colleagues had considered whether they had the option, or an obligation, "to step in and stop transactions that [they] suspected to be bringing proceeds of crime into British Columbia casinos":[251]

> One of the problems with that is that what you suspect and what actually is can be two different things. Even as a police officer for nearly 35 years, I may suspect something, but until such time as I have proof that it actually is what I suspect, I can't accuse people of it; I wouldn't accuse people of it. I would have to be very, very careful.
>
> And until such time as the British Columbia Lottery Corporation had some level of proof that this was actually proceeds of crime or money laundering, I don't see how we could have accused people of those types of crimes.

This response demonstrates a troubling misunderstanding of the differences between the role of law enforcement and that of BCLC. Mr. Friesen is correct that – and there is good reason why – a police officer should not accuse a person of a crime based on mere suspicion. A criminal charge, let alone a trial and conviction, has very serious implications for the person charged. As such, it is vital to have compelling evidence of a crime before taking that step. The same cannot be said of refusing a person the opportunity to gamble in a British Columbia casino. The impact of denying an individual the opportunity to play games in a casino is minimal in comparison to an arrest, criminal charge, trial, and possible conviction. As such, the level of certainty required before a person can be denied service in a casino (or is required to pay for the service with something other than cash) is likewise far below that required to charge a person with a criminal offence.

Further, there was no suggestion in the question put to Mr. Friesen that the appropriate action in response to these transactions was to accuse individual patrons

251 Evidence of G. Friesen, Transcript, October 28, 2020, p 90.

of criminal activity, nor would it have been necessary to do so in order to stem the flow of suspicious cash into the province's casinos. The issue was not whether there was proof sufficient to brand individual patrons as criminals. Rather, the question BCLC ought to have considered at the time was whether activity it knew to be occurring in the province's casinos fell within a reasonable tolerance for risk. It is abundantly clear that the answer to that question should have been "no." That BCLC seems to have been of the view that it required proof on a criminal standard that cash brought into casinos was the proceeds of crime before those transactions could be refused reveals a completely unacceptable and unreasonable risk tolerance and a failure on the part of BCLC to live up to its mandate to act in the public interest.

Contribution of BCLC's Actions Prior to Implementation of the Cash Conditions Program

In my view, for the reasons outlined above, the actions and inaction of BCLC prior to the formalization of the cash conditions program in 2015 were a significant contributing factor in the growth and perpetuation of money laundering in the province's gaming industry during this time period. BCLC had access to ample information that should have been more than sufficient to put it on notice that significant action to address suspicious activity in the industry was necessary. Moreover, it received repeated warnings from multiple sources, including the industry's regulator and one of its own investigators, regarding the severity of the risk associated with the suspicious activity rapidly growing within the industry, along with detailed descriptions of precisely how that activity could be related to money laundering. Rather than heeding these warnings and taking action to address the problem, BCLC argued with GPEB and sought to persuade its own staff that the large and obviously suspicious cash transactions occurring with increasing regulatory in the province's casinos were not connected to money laundering. It should have been clear to BCLC – as it was to others – not only that the industry was at high risk for money laundering, but that substantial amounts of illicit funds were actually being accepted in British Columbia casinos and that decisive and immediate action in response was necessary.

No such action was taken, and the volume of criminal proceeds accepted in the province's casinos grew virtually unabated for years. By the middle of the decade, the industry reached had a crisis of rampant, unchecked money laundering. At this point, BCLC finally began to take meaningful action to address this problem. While the actions it took at this time eventually had a significant impact on the volume of suspicious cash entering the province's casinos, as is discussed below, both the pace and substance of this response were insufficient given the scale of the crisis facing the industry.

Contribution of BCLC's Actions Following Implementation of the Cash Conditions Program and Related Measures

Beginning in the spring and summer of 2015, the indifference and inaction that characterized the previous era was replaced with the beginning of a genuine effort

on the part of BCLC to limit acceptance of suspicious cash and, by extension, money laundering in the province's casinos. Unfortunately, given the vast sums of illicit cash entering casinos by this point in time, the actions taken by BCLC during this time period came too late and were implemented with far too much timidity to amount to an adequate response to the crisis then facing the industry. Further, even as it began to take some meaningful action to respond to this issue, BCLC continued to resist calls to take additional steps that would have bolstered its nascent response.

Implementation and Impact of the Cash Conditions Program and Related Measures

In Chapter 11, I described in detail the nature and impact of the cash conditions program formalized by BCLC in 2015. In submissions before me, it was emphasized that this was an innovative strategy at the time that exceeded industry norms.[252] It is important, as described previously, to acknowledge the meaningful impact that this and related measures eventually had in reducing suspicious cash transactions and, ultimately, money laundering in the province's casinos. Between 2014, the final full year before the cash conditions program was formalized, and 2017, the total annual value of suspicious transactions reported by BCLC declined by nearly $150 million.[253] I note as well that the impact of these measures seems to have focused on the transactions of greatest concern, with suspicious transactions of $100,000 or more falling significantly from 2015 to 2017. While it is not possible to say with certainty that this was entirely the result of BCLC's efforts, it is clear, in my view, that these substantial reductions in suspicious cash entering the province's casinos were, in large part, the result of BCLC beginning to refuse a subset of suspicious cash transactions.

While these data demonstrate the ultimate impact of these measures, they also reveal their inadequacy, particularly in the initial stages of the program. In 2014, the final full year before the program was formalized, and during which only one patron was placed on conditions, BCLC reported 1,631 suspicious transactions with a total value of $195,282,332.[254] While I accept that not all of this cash was actually the proceeds of crime, and not all of these transactions involved the use of cash in casinos, it is nevertheless a very large volume of suspicious funds that should have made clear to any reasonable observer the depths of the crisis facing the industry at this time. While the value of suspicious funds began to fall in the years that followed, it remained extremely high. In 2015, the province's casinos reported $183,811,853 in 1,737 suspicious transactions.[255] In 2016 it reported $79,458,118 in 1,649 transactions[256] and in 2017 it reported $45,300,463 in 1,045 transactions.[257] While the reduced 2017 value may look

252 Closing submissions, British Columbia Lottery Corporation, para 72; Exhibit 1038, Report on AML Practices by Ernst & Young LLP, April 28, 2021, pp 20, 24, 26, 27; Evidence of R. Boyle, Transcript, September 13, 2021, pp 72–73, 98–100; Evidence of P. Ennis, Transcript, February 4, 2021, pp 3–4.

253 Exhibit 482, Cuglietta #1, exhibit A; Exhibit 784, Affidavit #2 of Cathy Cuglietta, sworn on March 8, 2021 [Cuglietta #2], exhibit A.

254 Exhibit 784, Cuglietta #2, exhibit A.

255 Ibid.

256 Ibid.

257 Ibid.

like progress relative to previous years, it remains an enormously troubling volume of suspicious funds that belies the notion that this problem had in any way been solved. Put simply, despite having recognized by 2015 that there was a need to refuse at least some suspicious cash, BCLC continued to accept it in substantial quantities over the next three years.

Looking ahead only one year further, it is possible to see what decisive action and true progress looks like and what would have been possible had a more appropriate response been implemented earlier. In 2018, the year in which, following Dr. German's recommendation, BCLC began to require proof of the source of funds for transactions of $10,000 or more in cash or other bearer monetary instruments, a total of just over $5 million in suspicious transactions was reported by BCLC.[258] The value of suspicious transactions reported by BCLC remained at these low levels through most of 2019, with the exception of the anomalous months of October and November 2019, as discussed in Chapter 12.[259] I note, as discussed above, that the annual values of suspicious transactions mentioned above are not strictly limited to suspicious transactions occurring in casinos, as they also include eGaming and "external request" suspicious transaction reports.[260] However, given how these trends correlate closely to changes in anti–money laundering efforts in casinos, including the expansion of the cash conditions program and the implementation of Dr. German's recommendation, I have confidence that these trends are reflective of the impact of these measures.[261]

It is unsurprising, in my view, that the value of suspicious transactions remained at elevated levels following the implementation of the cash conditions program, given the timidity of this action. In addition to two individuals placed on conditions in late 2014 and early 2015, prior to the formalization of the program,[262] the initial group of patrons placed on cash conditions in August 2015 consisted of only 10 individuals.[263] By the end of 2015, a year in which BCLC reported $183,841,853 in suspicious transactions, only 42 patrons had been placed on conditions.[264] At this point, with the exception of these 42 individuals, casino patrons could generally continue to buy-in at the province's casinos with hundreds of thousands of dollars in $20 bills, delivered on demand in the middle of the night, bound with elastics, and carried in grocery bags, cardboard boxes, or knapsacks. The reach of

258 Ibid.

259 Exhibit 482, Cuglietta #1, exhibit A. As discussed in Chapter 12, significant increases in the value of transactions reported as suspicious were observed in October and November 2019. While the cause of these increases is not apparent from the evidence before me, no similar increases were observed in large cash transaction reporting, indicating that the elevated levels of suspicious transactions reported in those months were not the result of an increase in cash transactions.

260 Ibid.

261 Further support for this conclusion that the trends in these data are reflective of changes in the rate at which suspicious cash was entering casinos is found in similar trends observed in GPEB data for suspicious currency transactions reported under s. 86 of the Gaming Control Act during this period: Exhibit 587, Meilleur #1, exhibit UUU; Exhibit 505, Lightbody #1, exhibit 57.

262 Exhibit 148, Tottenham #1, paras 79–84; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 80–82, 117–18.

263 Evidence of D. Tottenham, Transcript, November 4, 2020, p 177.

264 Exhibit 482, Cuglietta #1, exhibit A.

the program continued to expand in the years that followed, with an additional 61 patrons placed on conditions in 2016 and a further 107 in 2017.[265] I accept that the first patrons captured by the program were those engaged in the most suspicious activity including, significantly, patrons identified by police in the course of the E-Pirate investigation,[266] and that, as a result, the transactions affected included those of greatest concern. However, even as the program expanded in these years, it remained the case that it applied only to a limited group of patrons, targeting the individuals engaged in suspicious activity rather than the activity itself.[267] By 2015 it should have been abundantly apparent to BCLC that decisive across-the-board action, such as the source-of-funds rule implemented following Dr. German's recommendation, was needed and long overdue.

I do not mean to suggest that the source-of-funds rule implemented in response to Dr. German's recommendation was the only adequate means of responding to the crisis faced by the industry by 2015. It ought to have been clear at the time, however, that any approach that allowed some patrons to continue to buy-in using hundreds of thousands of dollars in cash of unknown origin was inadequate. The cash conditions program was certainly an improvement on BCLC's previous response to suspicious cash transactions. Had it been implemented years earlier, at a time that bet limits and levels of play were much lower, it might have altered the evolution of this issue such that it would never have reached the heights observed in 2014 and 2015. Given the scale of the crisis in the gaming industry by the time it was rolled out, however, it was simply too little and far too late.

Advice and Recommendations to Take Further Action

I am not the first to point out that the actions taken by BCLC during this time period were insufficient. The urgency of the situation and the need for further action was raised with BCLC repeatedly during these years as the cash conditions program was expanding. If the need for more urgent action was not apparent from BCLC's direct knowledge of suspicious activity in casinos, which it should have been, it should have been clear from communications including Minister de Jong's letter of October 1, 2015,[268] from subsequent mandate letters sent by Mr. de Jong,[269] and from correspondence between 2015 and 2017 from John Mazure, general manager of GPEB from 2013 to 2018,[270] all of which are discussed in detail in Chapter 11.

265 Ibid, exhibit A.

266 Evidence of D. Tottenham, Transcript, November 4, 2020, p 177 and Transcript, November 10, 2020, p 143; Evidence of R. Alderson, Transcript, September 9, 2021, pp 132–33.

267 In its reply submissions, BCLC argues that this program applied to all patrons in the sense that "all patrons were considered for conditions based on their behaviour and level of risk" and in that sense, "any patron could become subject to conditions." I accept that all patrons were, in theory, eligible to be placed on conditions, but it remains the case that not all were. In this sense, the conditions imposed on patrons as part of the program did not apply to all patrons: Reply submissions, British Columbia Lottery Corporation, para 74.

268 Exhibit 900, Letter from Michael de Jong, Providing BCLC with Direction on Phase Three of the AML Strategy (October 1, 2015) [de Jong Letter 2015].

269 Exhibit 892, Mandate Letter to BCLC for the 2016–2017 Fiscal Year (January 29, 2016); Exhibit 893, Mandate Letter to BCLC for the 2017–2018 Fiscal Year (December 2016).

270 Exhibit 505, Lightbody #1, exhibits 54, 55, 57.

As was the case prior to the initiation of the cash conditions program, it does not appear that these communications prompted any genuine reflection within BCLC as to whether it was responding appropriately to suspicious activity within the industry. Instead, these communications and other signals that further action was necessary prompted defensive responses from BCLC rather than good faith consideration as to whether there was a need to recalibrate its risk assessment or reconsider its actions. BCLC almost invariably responded by insisting that the actions it was taking were already sufficient. The responses to Mr. de Jong's letter of October 1, 2015, Mr. Mazure's letters to Mr. Lightbody between 2015 and 2017, and the 2016 Meyers Norris Penney report, discussed below, are illustrative.

As discussed in Chapter 11, the direction issued in Mr. de Jong's October 1, 2015, letter did not identify specific actions to be implemented by BCLC. With respect to source of funds and source of wealth inquiries, Mr. de Jong directed only that BCLC:[271]

> [e]nhance customer due diligence to mitigate the risk of money laundering in British Columbia gaming facilities through the implementation of AML compliance best practices including processes for evaluating the source of wealth and source of funds prior to cash acceptance.

Although Mr. de Jong's direction lacked specifics, some within BCLC interpreted his letter to require broad source-of-funds requirements. As described in Chapter 11, this prompted BCLC to draft a letter to Mr. de Jong, in the name of Mr. Smith, arguing against the imposition of more stringent measures and asserting that broad requirements to evaluate source of funds and source of wealth "would result in widespread business disruption."[272] The reaction reflected in this draft letter is consistent with the minutes of a board meeting in which Mr. de Jong's direction was discussed.[273] Due to a chance meeting between Mr. de Jong and Mr. Smith, this letter was never finalized and never sent.[274] In my view, however, it is illustrative of BCLC's resistance to external recommendations to take further action throughout this time period.

A similar dynamic is observed in correspondence between Mr. Mazure and Mr. Lightbody between 2015 and 2017,[275] and in a letter Mr. Lightbody sent to Mr. de Jong in response to a letter from Mr. Mazure.[276] As described in Chapter 11, Mr. Mazure sent Mr. Lightbody a series of letters during this time period urging him to take additional action to stem the flow of suspicious transactions in the province's casinos. In a July 2016 letter, Mr. Mazure made specific recommendations for measures to limit suspicious transactions such as a "source of funds questionnaire and a threshold amount over which BCLC would require service providers to refuse to accept unsourced funds, or a maximum number

271 Exhibit 900, de Jong Letter 2015.

272 Exhibit 538, Lightbody Email October 2015, p 4.

273 Exhibit 513, BCLC Minutes of the Meeting of the Board of Directors (October 29, 2015), p 7.

274 Evidence of B. Smith, Transcript, February 4, 2021, pp 75–76.

275 Exhibit 505, Lightbody #1, exhibits 48, 52, 54, 55, 56, 57, 58.

276 Ibid, exhibit 49.

of instances where unsourced funds would be accepted from a patron before refusal."[277] In a May 2017 letter, Mr. Mazure noted that despite some success in reducing suspicious transactions in casinos, the value of such transactions in 2016 – $72 million – remained "significant" and called for further action.[278] Mr. Lightbody responded to these letters, but in doing so, did not meaningfully engage with Mr. Mazure's concerns or suggestions.[279] Instead, Mr. Lightbody consistently advised that the actions already being undertaken by BCLC were sufficient, when it should have been obvious, based on the volume of suspicious transactions that continued in the gaming industry, that they were not.

A third example of BCLC's resistance to external advice during this time period is found in its response to the recommendation contained in the 2016 Meyers Norris Penney report that GPEB, at the direction of the responsible minister, issue "a directive pertaining to the rejection of funds where the source of cash cannot be determined or verified at specific thresholds."[280] While I accept that BCLC did take action on other recommendations made in the same report,[281] it raised concerns that this recommendation might be inconsistent with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17, or that it might lead to legal action by service providers.[282]

Further, as discussed in Chapter 11, after receiving the Meyers Norris Penney report, BCLC retained an external consulting firm to conduct an analysis of the financial impact of a cash cap of $10,000.[283] Based on emails between Mr. Desmarais and the consulting firm subsequent to the completion of this analysis, it is apparent that this analysis was conducted for the purpose of arming BCLC to argue against the imposition of such measures in the event that GPEB sought to implement them.[284]

I do not mean to suggest that BCLC never genuinely considered recommendations or guidance from any external source. As noted above, for example, BCLC did implement most of the recommendations in the Meyers Norris Penney report and it did generally follow FINTRAC guidance.[285] As the above examples illustrate, however, BCLC was

277 Ibid, exhibit 55.

278 Ibid, exhibit 57.

279 Ibid, exhibits 52, 56, 58.

280 Exhibit 73, Overview Report: Past Reports and Recommendations Related to the Gaming Sector in British Columbia, Appendix J, MNP LLP, *British Columbia Gaming Policy Enforcement Branch: AML Report* (July 26, 2016) [OR: Gaming Reports and Recommendations, Appendix J], para 5.52.

281 Exhibit 490, Kroeker #1, para 124 and exhibit 51; Exhibit 711, Table of Response to Recommendations in MNP Report; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 137.

282 Exhibit 556, MOF Briefing Document, Minister's Direction to Manage Source of Funds in BC Gambling Facilities (February 2017) [February 2017 MOF Briefing Document], p 7; Exhibit 490, Kroeker #1, exhibit 51.

283 Exhibit 490, Kroeker #1, exhibit 109.

284 Exhibit 526, Email exchange between Brad Desmarais to Robert Scarpelli, Re SP Job Loss in the Event of Reduction of High Limit Rooms and/or Elimination of Cash Buy-Ins over $10K (October 12, 2017) [Scarpelli Email].

285 Evidence of B. Desmarais, Transcript, February 2, 2021, pp 2, 75–76, 80; Exhibit 490, Kroeker #1, paras 33, 44, 216, 246–54, 280; Exhibit 148, Tottenham #1, paras 64, 66 and exhibit 107; Exhibit 505, Lightbody #1, paras 176–78, 295; Exhibit 522, Desmarais #1, para 36; Evidence of G. Friesen, Transcript, October 28, 2020, pp 127–28, 146–47; Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 83–84, 90, 134; Evidence of R. Kroeker, Transcript, January 25, 2021, p 190; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 31–32, 36–37 and Transcript, January 29, 2021, pp 2–3, 71, 98–99, 120–21; Evidence of T. Towns, Transcript, January 29, 2021, pp 183–84.

particularly resistant to any external suggestion that it implement measures limiting the acceptance of cash by casinos. One of the unfortunate consequences of this resistance to external advice is that it resulted in BCLC refusing advice urging it to put in place measures that it would eventually go on to implement – or attempt to implement – years later. This includes advice from FINTRAC and GPEB that BCLC take steps to verify the source of funds used in large cash transactions, years before the cash conditions program was implemented.[286] BCLC's resistance, prior to the implementation of Dr. German's source-of-funds recommendation, to requiring all patrons to declare or provide proof of the source of funds for all transactions over an identified threshold is observed, among other instances, in its response to the recommendation referred to above in the 2016 Meyers Norris Penney report, in an August 2015 letter from Mr. Lightbody to Mr. de Jong,[287] and in the draft letter to Mr. de Jong from Mr. Smith in response to Mr. de Jong's letter of October 1, 2015 (which did not actually propose such a measure).[288] In each of these cases, it is evident that BCLC eventually came to see the wisdom of the ideas it initially rejected and that these measures had a significant positive impact in reducing suspicious cash and preventing money laundering in the province's casinos. Had BCLC been willing to genuinely consider ideas generated outside of the organization, it is possible that these or other measures could have been implemented years earlier and that hundreds of millions of dollars in illicit funds accepted by the province's casinos could have been turned away.

Commitment to a Risk-Based Approach

One of the rationales offered for the nature of BCLC's response to suspicious transactions during this time period was a commitment to a "risk-based approach."[289] In his evidence, Mr. Lightbody relied on BCLC's adherence to this approach as justification for not applying source-of-funds requirements to all patrons, as was eventually implemented in response to Dr. German's first interim recommendation.[290]

The nature of a risk-based approach was addressed in the Province's examination of Mr. Desmarais.[291] Mr. Desmarais agreed that such an approach is one in which an organization's resources are focused where they are needed to manage risk within an organization's tolerance level; that once risks are identified, the measures used to address those risks must be commensurate with the risks identified; and that resources must be directed so that the greatest risks faced by an organization receive the greatest

286 Exhibit 181, Vander Graaf #1, para 116; Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 84–85; Exhibit 557, Scott #1, paras 73–74; Evidence of D. Scott, Transcript, February 8, 2021, pp 53–56; Exhibit 578, Hodgkin Letter December 2012.

287 Exhibit 505, Lightbody #1, exhibit 49.

288 Exhibit 538, Lightbody Email October 2015, p 4.

289 Exhibit 505, Lightbody #1, para 193; Evidence of B. Desmarais, Transcript, February 1, 2021, p 73; Evidence of T. Towns, Transcript, February 2, 2021, pp 1–6; Evidence of R. Kroeker, Transcript, January 26, 2021, pp 102–3, 198; Evidence of B. Smith, Transcript, February 4, 2021, pp 120–21.

290 Evidence of J. Lightbody, Transcript, January 28, 2021, pp 45–46, 60–63.

291 Evidence of B. Desmarais, Transcript, February 2, 2021, pp 1–6.

attention.[292] Mr. Desmarais also agreed that a risk-based approach is not static and that it is important to continually assess vulnerabilities and address them accordingly.[293]

I accept that BCLC had a legitimate interest in adhering to a risk-based approach. Such an approach is consistent with guidance issued by the Financial Action Task Force and FINTRAC[294] and Mr. de Jong specifically directed the application of a risk-based approach in his letter of October 1, 2015.[295] I do not accept, however, that this interest in adhering to a risk-based approach justifies or even explains the inadequacy of BCLC's action during this time period, as I do not accept that, even within a risk-based framework, BCLC was limited to the actions that it took.

BCLC could have taken much more aggressive action to address suspicious cash transactions during this time period, without straying outside of a risk-based approach. Most obviously, the cash conditions program, which was implemented within what BCLC understood to be a risk-based framework, could have been rolled out much more rapidly and aggressively, targeting many more patrons in its initial stages and moving on to additional patrons more quickly. This may have required additional resources but does not seem inconsistent with a risk-based approach. Secondly, Mr. Desmarais agreed in his evidence that prescriptive elements are not inconsistent with and can be incorporated into a risk-based approach.[296] Thus, it does not seem that it would have been inconsistent with a risk-based approach to incorporate more wide-reaching and universally applicable measures, such as hard caps on cash transactions or universal requirements for proof of the source of funds used in transactions over an identified threshold. Accordingly, I do not accept that adherence to a risk-based framework precluded BCLC from adopting these kinds of measures. A properly calibrated assessment of the money laundering risks faced by BCLC should have resulted in the identification of very large cash transactions as being beyond BCLC's risk tolerance. BCLC's failure to identify these kinds of more prescriptive measures as necessary reflects an inappropriate tolerance for risk.

Although I understand its interest in using a risk-based framework, I am not persuaded that adherence to such an approach precluded the possibility of BCLC adopting prescriptive elements in order to properly respond to suspicious activity and associated money laundering risks in the industry at this time. BCLC's tolerance for money laundering risk in the industry was unacceptably high and its failure to adapt its approach despite obvious evidence of money laundering in the province's casinos is troubling. Even if the measures required to properly respond to this issue were inconsistent with a risk-based approach, and BCLC understood that it had been directed

292 Ibid, pp 2–4.

293 Ibid, p 4.

294 Ibid, pp 2, 114; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 120–21 and Transcript, January 26, 2021, p 102; Evidence of J. Lightbody, Transcript, January 29, 2021, pp 2–3, 120–21 and Transcript, January 29, 2021, pp 120–21; Exhibit 490, Kroeker #1, para 198.

295 Exhibit 900, de Jong Letter 2015.

296 Evidence of B. Desmarais, Transcript, February 2, 2021, pp 4–5.

to adhere to such an approach by Mr. de Jong, I can see no reason why BCLC could not have advised the minister that such an approach did not allow BCLC to adequately respond to the suspicious activity rampant in the province's casinos and sought the minister's blessing to vary its approach. BCLC never did so, and as such, I see no merit to the notion that expectations or preferences for a risk-based approach were an insurmountable hurdle to implementing the kind of measures necessary to stop the money laundering I have found was prevalent in the gaming industry prior to 2018.

I pause here to note that, in its closing submissions, BCLC sought a recommendation for "the continuation of a risk-based approach to [anti–money laundering] in the casino sector."[297] While I have no concern, in principle, with a risk-based approach and, for the reasons set out above, do not believe that adherence to this approach foreclosed an effective response to suspicious cash transactions, I decline to make such a recommendation. It is apparent from the evidence before me that the effect of the devotion to this particular regulatory philosophy was, in part, to close the mind of those responsible for overseeing the gaming industry to more decisive and more effective responses to suspicious activity. It is vital that regulatory and other authorities remain open to any and all responses to future risks to the integrity of the industry, whether or not they are perceived to be consistent with any particular regulatory philosophy.

Contribution of BCLC's Actions Following Implementation of the Cash Conditions Program

For the reasons outlined above, the formalization of BCLC's cash conditions program marked an important shift in the manner in which BCLC's actions impacted money laundering in the gaming industry. After several years in which BCLC took no meaningful steps to address rising suspicious transactions in the province's casinos, it finally began taking action that would eventually have a significant impact on the rate at which casinos were accepting suspicious cash. Unfortunately, by the time BCLC began taking this action, the industry had reached a crisis point that saw it accept nearly $200 million in suspicious transactions in 2014 and only slightly less than that in 2015. The actions that BCLC took, initially focused on a narrow set of individual patrons rather than on suspicious activity itself, were inadequate to meet this challenge. While the cash conditions program was undoubtedly a positive step, the failure of BCLC to recognize and take action commensurate with the scale of the challenge at this time led to the continued acceptance of substantial quantities of proceeds of crime even after BCLC finally recognized the need to begin refusing at least some suspicious transactions.

Contribution of BCLC's Actions Following Implementation of Dr. German's Source-of-Funds Recommendations

At the end of 2017, there was a second substantial shift in BCLC's efforts to respond to suspicious cash transactions in the province's casinos. During this time period, BCLC

297 Closing submissions, British Columbia Lottery Corporation, para 132.

finally moved beyond the initial inaction and subsequent timidity that characterized its previous efforts and began to make significant and appropriate efforts to address suspicious transactions and money laundering in the province's casinos.

Implementation of Dr. German's Source-of-Funds Recommendations

The most significant measure implemented by BCLC during this time period was the introduction of mandatory inquiries into the source of funds used in all transactions of $10,000 or more made using cash or other bearer monetary instruments, as recommended by Dr. German.[298] BCLC implemented Dr. German's recommendation, at the urging of the responsible minister, on an urgent basis.[299] As discussed in detail earlier in this Report, BCLC's contribution in this regard was not limited to simply following the letter of Dr. German's recommendation. Instead, it clearly took to heart the spirit of the recommendation and the outcomes it was intended to achieve and, on the advice of Mr. Kroeker, made two critical additions to the recommended measure that significantly enhanced its effectiveness. These changes included a requirement that patrons not just declare but provide proof of the source of funds used in transactions over $10,000[300] and the elimination of an exemption from this requirement for new patrons, which was suggested by Dr. German.[301]

The impact of Dr. German's recommendation was referred to above and discussed at length in Chapter 12. It is at this point, in my view, that the gaming industry finally implemented measures commensurate with the nature and scale of the money laundering problem that it faced. The additional changes recommended by Mr. Kroeker and implemented by BCLC, particularly the requirement that proof of the source of funds used in a transaction be provided before the transaction could be accepted, were crucial to the success of this measure. This is precisely the sort of action that would have prevented the rise of money laundering to the extraordinary heights it reached by the middle of the decade, had it been implemented when the issue first became apparent years earlier.

Continuation of the Cash Conditions Program

In addition to the above-noted enhancements to Dr. German's recommendation, Mr. Kroeker also recommended that BCLC continue the cash conditions program formalized in 2015.[302] In 2018, the year that Dr. German's recommendation was implemented, an additional 209 patrons were placed on cash conditions, and in 2019, 179 further patrons were added.[303] The decision to continue the program ensured that,

298 Exhibit 832, Peter German, *Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos Conducted for the Attorney General of British Columbia*, March 31, 2018 *[Dirty Money 1]*, p 247.

299 Exhibit 505, Lightbody #1, para 258–76.

300 Exhibit 490, Kroeker #1, para 228; Exhibit 78, Beeksma #1, para 82; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 75–76.

301 Exhibit 490, Kroeker #1, paras 226–27.

302 Ibid, paras 225–27.

303 Exhibit 482, Cuglietta #1, exhibit A.

while the source of funds used by any patron in transactions over $10,000 conducted in cash or bearer monetary instruments would be scrutinized in accordance with Dr. German's recommendation, for patrons identified by BCLC as higher risk, all transactions, regardless of amount, would receive this same level of scrutiny.[304]

Additional Anti–Money Laundering Proposals

Finally, in addition to its improvement upon and implementation of Dr. German's recommendation, and the continued expansion of the cash conditions program, BCLC proposed the introduction of several additional anti–money laundering measures aimed squarely at suspicious cash during this time period. These measures, described in detail in Chapter 12, included a proposed cap on cash transactions,[305] limits on cash pay-outs,[306] and the "de-risking" of funds obtained from money services businesses,[307] among others. While some of these measures were not ultimately implemented,[308] they represent an important shift in BCLC's approach to this issue.

Further, in my view, the decision to de-risk money services businesses, which was implemented, was a significant advancement in efforts to remove suspicious cash from casinos. As outlined in Mr. Kroeker's evidence, based on its own inquiries, BCLC concluded that it could not be confident that funds obtained from money services businesses would not be tainted by criminality.[309] In light of this information, had BCLC continued to accept money obtained from money services businesses as sourced funds, the cash conditions program and Dr. German's source-of-funds recommendation could have been severely undermined, as the proceeds of crime sourced from these businesses could have continued to make their way into casinos. As such, in my view, this measure significantly improved the effectiveness of the cash conditions program and the measures implemented in response to Dr. German's recommendation and represents an important step toward the removal of illicit funds from the province's gaming industry.

Contribution of BCLC's Actions Following Dr. German's Recommendation

For the reasons discussed above, the period of time beginning with the delivery of Dr. German's first interim recommendations marks a second important shift in the impact of BCLC's actions on money laundering in the province's gaming industry. With the formalization of the cash conditions program, BCLC moved from near-complete abdication of its responsibility to prevent the acceptance of illicit funds to taking positive, but obviously inadequate, action toward this end. Beginning with its embrace

304 Exhibit 490, Kroeker #1, paras 224–27.

305 Ibid, para 201; Evidence of R. Kroeker, Transcript, January 25, 2021, p 144; Exhibit 505, Lightbody #1, paras 290–93.

306 Exhibit 490, Kroeker #1, paras 145–46; Exhibit 148, Tottenham #1, para 178 and exhibit 66.

307 Exhibit 148, Tottenham #1, exhibit 54.

308 Exhibit 505, Lightbody #1, paras 304–12; Exhibit 148, Tottenham #1, paras 175–82; Exhibit 490, Kroeker #1, paras 139–54, 202–8.

309 Exhibit 490, Kroeker #1, paras 209–21; Evidence of D. Tottenham, Transcript, November 5, 2020, p 27; Exhibit 505, Lightbody #1, paras 313–19.

of Dr. German's recommendation, BCLC began to play a significant and positive role in finally addressing this problem in a manner commensurate with its severity and BCLC's role in the gaming industry. While it could be argued that, given the political dynamics at the time, it had little practical choice but to implement Dr. German's recommendation, BCLC went well beyond the bare minimum required to demonstrate compliance. On its own initiative, BCLC made significant enhancements to Dr. German's recommendation, continued to expand the cash conditions program, and sought to introduce additional measures aimed at further reducing suspicious cash in the industry. These are not the actions of an organization seeking to do only the bare minimum out of a sense of political necessity. Rather, during this time period, I accept that BCLC finally embraced the potential offered by its role in the gaming industry to address the long-standing problem of suspicious cash in the industry and took meaningful action to resolve the issue. It is regrettable that it took BCLC so long to do so. I do acknowledge, however, that after many years of insufficient action, we have finally reached a point in this province where the issue of illicit cash being accepted by casinos is being taken seriously and adequately addressed by BCLC.

Understanding BCLC's Inaction

In order to fully understand the factors that contributed to the rise and perpetuation of money laundering in the gaming industry over so many years, it is useful to consider not only *how* the actions of BCLC contributed to the growth of this problem, but *why* BCLC conducted itself as it did. First, however, it is important to note the inherent limitations in this analysis. BCLC is comprised of many individuals, each with their own motivations for their actions. It is neither possible nor necessary to address all of these individual motivations and I do not suggest that the issues identified below were the basis for the conduct of each individual BCLC employee that played a role in the corporation's response to the growth of suspicious cash in the industry. In my view, however, there are three underlying themes that pervade BCLC's response to this issue, and which assist in understanding why it took the actions that it did: an undue concern about revenue losses; skepticism of external viewpoints; and a failure to give due regard to local conditions.

Undue Concern About Revenue Losses

The evidence before me demonstrates that BCLC's initial inaction and subsequent failure to take adequate action was motivated in part by a concern about the impact that more aggressive action may have had on BCLC and service provider revenue. There is nothing at all improper about a concern on the part of BCLC about maintaining revenue. Gaming is not a social service. It is offered by the Province through BCLC for the purpose of generating revenue for the provincial government. As discussed in the Commission's hearings, this revenue is used for any number of

important public functions, including education and health care.[310] A concern for revenue generation on the part of BCLC is not unseemly and, provided it is properly infused with BCLC's mandate to operate in the public interest, entirely appropriate.

Concern arises, however, where a focus on revenue generation overshadows concern for ensuring that revenue is generated in a socially responsible way. Unfortunately, during the time period at issue here, prior to 2018, this is precisely what occurred. This is evident from Mr. Graydon's evidence that his response to proposals to limit acceptance of $20 bills was influenced by possible "severe negative financial impact to BCLC's business,"[311] from Mr. Friesen's acknowledgment in a 2012 meeting that directions issued by Mr. Towns to three BCLC investigators not to speak to patrons was motivated by revenue considerations,[312] from internal BCLC communications identifying the impact on revenue as a possible factor in decision-making about how to treat VIP patrons engaged in suspicious activity,[313] and in the evidence of BCLC employees who acknowledged that the Lottery Corporation, at times, took less aggressive action to address suspicious cash transactions because of revenue considerations.[314] It is also apparent in preparations undertaken by BCLC in anticipation of advocating against the imposition of aggressive anti–money laundering measures by government. Examples of this include the draft letter prepared to respond to Mr. de Jong's October 1, 2015, letter to Mr. Smith, which emphasized possible revenue implications in arguing against the imposition of a universal requirement to verify the source of funds used in transactions over $10,000,[315] as well as BCLC's preparation to advocate against the imposition of a cash cap by retaining an external consulting firm to examine the revenue implications of such a policy.[316]

It is not at all inappropriate for BCLC to advise government about the possible impact of changes to policy, including anti–money laundering policy, on revenue. Doing so is a vital part of BCLC's responsibilities. In these instances, however, BCLC was not simply preparing to provide neutral advice about the impact of these policies. Rather, it clearly intended to advocate against them by emphasizing possible negative revenue impact, without giving due regard to the significant potential the policies held to advance efforts to combat criminal activity.

310 Exhibit 522, Desmarais #1, para 28; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 70–72; Evidence of J. Lightbody, Transcript, January 29, 2021, pp 40–41, 103–4, 125–26; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 201–2; Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 190–91.

311 Exhibit 576, Graydon #1, para 33.

312 Evidence of R. Alderson, Transcript, September 9, 2021, p 22; Exhibit 1035, Ross Alderson Notes – January 2011–January 2013, p 8.

313 Evidence of R. Alderson, Transcript, September 10, 2021, pp 56–60; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 27–29, 94–101, 112–16, 120–31, 140–43 and Transcript, November 10, 2020, pp 34–39; Evidence of B. Smith, Transcript, February 4, 2021, pp 119–20; Exhibit 538, Lightbody Email October 2015; Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 57–59; Exhibit 148, Tottenham #1, exhibit 7; Exhibit 130, Email from Ross Alderson re VVIP Players and Sanctions (May 14, 2015).

314 Evidence of M. Hiller, Transcript, November 9, 2020, p 124; Evidence of J. Karlovcec, Transcript, October 29, 2020, p 94; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 114–16, 130, 141 and Transcript, November 10, 2020, p 32; Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 48–49, 191.

315 Exhibit 538, Lightbody Email October 2015, p 4.

316 Exhibit 526, Scarpelli Email; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 40–41.

I note that, in their closing submissions, both BCLC and Mr. Lightbody denied that revenue considerations played any part in decision-making regarding anti–money laundering measures,[317] with Mr. Lightbody emphasizing the resources dedicated to anti–money laundering compliance and other initiatives.[318] I accept that BCLC's anti–money laundering unit and the initiatives that it oversaw were generally well resourced. I accept as well that little expense was spared by BCLC in pursuit of anti–money laundering compliance. It is clear from the evidence before me, however, that in responding to the issue of large and suspicious cash transactions in particular, BCLC took the revenue impacts of possible actions or measures into account and adjusted its efforts in order to minimize impacts on revenue.

Skepticism of External Viewpoints

The second theme arising from this review of the impact of BCLC's actions on money laundering in the province's gaming industry is its aversion to external viewpoints. As discussed briefly above, BCLC's actions demonstrate a repeated pattern of skepticism towards advice and recommendations generated outside of the BC Lottery Corporation itself, to the point where it repeatedly resisted policy proposals originating from external sources, only to implement or attempt to implement similar policies on its own initiative years later, often to great effect. Given the eventual success of many of these initiatives, it seems plausible that they would have had similar results if implemented when initially proposed.

This hostility to external viewpoints is apparent from the early stages of the rise of suspicious cash in the province's casinos throughout the evolution of BCLC's approach to money laundering. It is evident in BCLC's response to recommendations made in a 2009 memorandum prepared by the GPEB audit, registration and investigation divisions;[319] in responses to the letters sent by GPEB's investigation division between 2010 and 2012;[320] in reactions to suggestions made by FINTRAC and by Mr. Scott during his tenure as general manager of GPEB in or around 2012 that BCLC make inquiries into the source of funds used in large cash transactions;[321] in the reactions to Mr. de Jong's October 2015 letter[322] and the source-of-funds requirements proposed in the 2016 Meyers Norris Penney report;[323] and in Mr. Lightbody's responses to Mr. Mazure's letters in 2015, 2016, and 2017.[324]

317 Closing submissions, British Columbia Lottery Corporation, para 15; Closing submissions, Jim Lightbody, paras 9, 26.

318 Closing submissions, Jim Lightbody, para 9.

319 Exhibit 511, Emails from Bill McCrea, re BCLC Money Management Material (July 8, 2009), with attachment.

320 Exhibit 108, Dickson Letter April 2010; Exhibit 109, Letter from Gordon Friesen re Loan Sharking / Suspicious Currency and Chip Passing (May 4, 2010) [Friesen Letter 2010]; Exhibit 110, Dickson Letter November 2010; Exhibit 112, Schalk Letter February 2011; Exhibit 488, Schalk Letter December 2012; Exhibit 576, Graydon #1, paras 42–48 and exhibit D; Exhibit 557, Scott #1, paras 69–70; Evidence of M. Graydon, Transcript, February 11, 2021, pp 44–45.

321 Exhibit 181, Vander Graaf #1, para 116; Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 84–85; Exhibit 557, Scott #1, paras 73–74; Evidence of D. Scott, Transcript, February 8, 2021, pp 53–56; Evidence of M. Graydon, Transcript, February 11, 2021, pp 75–77; Exhibit 578, Hodgkin letter December 2012.

322 Exhibit 538, Lightbody Email October 2015; Exhibit 513, BCLC Minutes of the Meeting of the Board of Directors (October 29, 2015), p 7.

323 Exhibit 556, February 2017 MOF Briefing Document, p 7; Exhibit 490, Kroeker #1, exhibit 51; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 137.

324 Exhibit 505, Lightbody #1, exhibits 49, 52, 56, 58.

BCLC plays a leading role in the province's efforts to combat money laundering in the gaming industry and has developed significant internal experience and expertise in this area. This does not mean, however, that it has a monopoly on good ideas or that it cannot benefit from the input of GPEB or others. The history recounted in this report shows just the opposite: that ignoring the advice and warnings of others led BCLC astray and contributed to the growth of money laundering in the gaming industry. I am encouraged by the evidence that I have heard about the co-operation and productivity that characterizes the current relationship between BCLC and GPEB.[325] I am hopeful that, moving forward, both organizations will work together in a spirit of collaboration, giving due consideration to the perspectives of all stakeholders with an interest in eliminating criminality from the province's gaming industry. This is not to suggest that there can never be disagreement or that BCLC must reflexively adopt any and all recommendations regardless of their content, but it is imperative that it also not immediately reject any external suggestions simply because they originate outside of BCLC.

Failure to Give Due Regard to Local Conditions

One of the exceptions to this general hostility toward external advice and perspectives on the part of BCLC relates to guidance from national and international bodies, particularly FINTRAC. Despite its failure to act on a 2012 FINTRAC suggestion[326] to verify the source of funds used in large cash transactions, BCLC generally adhered closely to FINTRAC guidance in directing its anti–money laundering efforts[327] and clearly took pride in its record of positive feedback from FINTRAC.[328]

In its communications with GPEB and government and in response to calls to take further action, BCLC frequently cited its compliance with FINTRAC requirements, positive record in FINTRAC audits, and favourable comparisons with actions taken by gaming operators in other jurisdictions as evidence that the efforts it was already taking were both adequate and appropriate.[329]

325 Exhibit 485, Affidavit #3 of Kevin deBruyckere, sworn on January 19, 2021 [deBruyckere #1], para 19; Evidence of K. deBruyckere, Transcript, January 21, 2021, p 98; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 157–58; Evidence of C. Skrine, Transcript, January 27, 2021, pp 35–36, 48, 58–59; Evidence of S. MacLeod, Transcript, April 19, 2921, pp 91, 113–15.

326 Evidence of M. Graydon, Transcript, February 11, 2021, pp 75–77; Exhibit 578, Hodgkin Letter December 2012.

327 Evidence of B. Desmarais, Transcript, February 2, 2021, pp 2, 75–76, 80; Exhibit 490, Kroeker #1, paras 33, 44, 216, 246–54, 280; Exhibit 148, Tottenham #1, paras 64, 66 and exhibit 107; Exhibit 505, Lightbody #1, paras 176–78, 295; Exhibit 522, Desmarais #1, para 36; Evidence of G. Friesen, Transcript, October 28, 2020, pp 127–28, 146–47; Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 83–84, 90, 134; Evidence of R. Kroeker, Transcript, January 25, 2021, p 190; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 31–32, 36–37 and Transcript, January 29, 2021, pp 2–3, 71, 98–99, 120–21; Evidence of T. Towns, Transcript, January 29, 2021, pp 183–84.

328 Exhibit 490, Kroeker #1, paras 44, 248–49; Exhibit 505, Lightbody #1, paras 176–77; Evidence of B. Desmarais, Transcript, February 2, 2021, pp 75–76, 80; Evidence of J. Karlovcec, Transcript, October 30, 2020, p 134; Evidence of J. Lightbody, Transcript, January 29, 2021, pp 71, 98–99.

329 Exhibit 490, Kroeker #1, para 249 and exhibit 148; Exhibit 505, Lightbody #1, exhibits 52, 56, 58; Evidence of D. Eby, Transcript, April 26, 2021, pp 31–34; Exhibit 905, BCLC Briefing (July 31, 2017); Exhibit 511, McCrea Email 2009, pp 2, 6; Exhibit 111, Karlovcec Letter December 2010; Exhibit 927, Advice to Minister, Issues Note, re Large Cash Transaction Reporting (February 23, 2012) [Advice to Minister February 2012]; Exhibit 922, Affidavit #1 of Cheryl Wenezenki-Yolland, sworn on April 8, 2021 [Wenezenki-Yolland #1], para 177.

It is important that BCLC ensure that it is, at least, keeping pace with developments in anti–money laundering in the gaming industry nationally and globally. It appears, however, based on the record before me, that BCLC has relied too heavily on international standards and best practices, and that its belief that it was a leader in anti–money laundering nationally and globally led to a troubling level of complacency that caused it to ignore conditions on the ground that were clearly indicative of extensive money laundering in the province's casinos.

This dynamic is evident throughout the time period of concern. It appears in its response to a 2011 letter from the GPEB investigation division, in which BCLC rejected the notion that large cash transactions could be tied to money laundering because it did not appear that traditional and widely understood methods of casino-based money laundering were possible given the controls in place.[330] BCLC's focus on established anti–money laundering orthodoxy appears to have blinded it to the possibility that this obviously suspicious activity was tied to a new and less familiar typology even when directly brought to its attention by the GPEB investigation division and Mr. Hiller. Further evidence of this over-reliance on national and international standards is observed in BCLC's reliance on its successful FINTRAC audits and complimentary comments made by FINTRAC as evidence that its anti–money laundering regime was effective, observed in communications with government and GPEB.[331] Given the conditions on the ground in the province's casinos, it seems that BCLC was ignoring obvious signs of money laundering simply because FINTRAC said that it was doing a good job. Finally, this over-reliance on international standards and best practices was apparent in the evidence and arguments put forward during the Commission's hearings. In particular, as the Commission's hearings were ongoing, BCLC obtained two reports from Bob Boyle, an international anti–money laundering expert based in the New York office of Ernst & Young, who has extensive experience in the gaming sector and was subsequently called as a witness.[332] Mr. Boyle's evidence indicated that BCLC is doing, and for some time has been doing, more than casino operators in a range of other major gaming jurisdictions around the world to respond to the threat of money laundering. My concern, however, is not whether BCLC is or historically has been a leader or a laggard relative to its Canadian and global peers. My concern is that, over the course of a nearly a decade, hundreds of millions of dollars were laundered through casinos for which BCLC was responsible. BCLC's focus on the opinions of people like Mr. Boyle rather than this undeniable reality is emblematic of the kind of thinking that led to this problem in the first place.

330 Exhibit 111, Karlovcec Letter December 2010.

331 Exhibit 490, Kroeker #1, para 249 and exhibit 148; Exhibit 505, Lightbody #1, exhibits 52, 56, 58; Evidence of D. Eby, Transcript, April 26, 2021, pp 31–34; Exhibit 905, BCLC Briefing (July 31, 2017); Exhibit 511, McCrea Email 2009, pp 2, 6; Exhibit 111, Karlovcec letter December 2010; Exhibit 927, Advice to Minister February 2012; Exhibit 922, Wenezenki-Yolland #1, para 177.

332 Evidence of B. Boyle, Transcript, September 13, 2021; Evidence of B. Boyle, Transcript, September 14, 2021; Exhibit 1037, Report on Known Play by Ernst & Young LLP (April 30, 2021); Exhibit 1038, Report on AML Practices by Ernst & Young LLP (April 28, 2021); Closing submissions, British Columbia Lottery Corporation, paras 29, 102, 118–19.

It is appropriate for BCLC to be concerned about compliance with its obligations to FINTRAC. It is also appropriate for it to take guidance from national and international anti–money laundering organizations and experts to ensure that it is keeping up with global standards and best practices. In doing so, however, BCLC must not lose sight of the fact that it operates in British Columbia, for the benefit of British Columbians. I strongly suspect that the people of this province care far less about the results of FINTRAC audits and the approval of Mr. Boyle than they do about whether money is being laundered through their casinos. The primary goals of BCLC's anti–money laundering efforts must be to prevent money laundering in the gaming industry and to keep the proceeds of crime out of the province's casinos. I do not believe that these goals are inconsistent with compliance with FINTRAC standards or adherence to international best practices. It is evident from the record before me, however, that risk arises if concern for compliance causes BCLC to lose sight of what is occurring on the ground in the casinos or the fact that British Columbia is, for many reasons, a unique environment and that anti–money laundering measures that may be sufficient elsewhere in the world will not always meet the needs of this province.

Conclusion

While these dynamics may provide a partial explanation for BCLC's inadequate response to obvious money laundering in the gaming industry over the course of a decade, they clearly do not justify it. Despite access to detailed information regarding obviously suspicious activity occurring in the province's casinos, a high degree of control over the gaming industry, and repeated warnings that this activity was likely connected to money laundering, BCLC persistently failed to take action commensurate with the severity of the suspicious activity that became commonplace in the industry. As a result of this inaction, money laundering flourished in this province's casinos for years, and BCLC accordingly bears significant responsibility for the growth and perpetuation of the money laundering crisis that afflicted the industry for so long. Following Dr. German's first interim recommendations, BCLC finally began to take action commensurate with the nature and scale of money laundering in casinos and, in doing so, has played a significant and important role in finally bringing the money laundering crisis in British Columbia casinos under control.

Actions and Omissions of the Gaming Policy and Enforcement Branch

Like those of BCLC, the actions of GPEB played a significant contributing role in the growth and perpetuation of money laundering in British Columbia's gaming industry between 2008 and 2018. Like BCLC, the Branch had both the information necessary to recognize the need for action throughout this time period and the responsibility to act in the public interest to respond to obvious indicators that substantial amounts of illicit funds were being accepted in the province's casinos. Where GPEB differed from

BCLC, at least prior to 2018, was in its level of control over activity taking place within the gaming industry. Due to the structure of the *Gaming Control Act* prior to 2018,[333] its lack of a "conduct and manage" mandate,[334] and the fact that it was not a party to operational services agreements with service providers,[335] GPEB did not have the same level of direct control over the industry as BCLC and, as a result, did not have the same capacity to independently respond to rising levels of illicit cash.

This does not mean, however, that GPEB had no responsibility or ability to respond to this problem. Rather, it clearly did have the mandate and capacity to take significant action to address rising levels of suspicious cash in the province's casinos. As will be discussed below, throughout the time period that I have found that money laundering was occurring in the province's gaming industry, GPEB fell well short of doing all that it could to respond to the growing crisis in the gaming industry and, as a result, its actions and omissions played a significant role in the perpetuation of money laundering in the industry that it was responsible for regulating.

It is useful to consider the role played by GPEB in multiple, distinct time periods, roughly correlating to those considered with respect to BCLC. During the first of these time periods, ending in the summer of 2015, GPEB, with the notable exception of its investigation division, failed to appreciate the urgency of the growing crisis in the province's gaming industry and consequently, failed to take any meaningful action in response.

Contrary to the rest of GPEB, the investigation division, under the leadership of Mr. Schalk and Mr. Vander Graaf, clearly understood both the nature and severity of the suspicious activity occurring in the province's casinos[336] and went to great effort to convince others, both within GPEB and beyond,[337] of the urgency of the situation until late 2014, when Mr. Vander Graaf and Mr. Schalk were terminated[338] and the investigation division merged into GPEB's compliance division as part of a reorganization of the Branch.[339]

333 *Gaming Control Act*, s 28; Exhibit 541, Mazure #1, para 224; Evidence of S. MacLeod, Transcript, April 19, 2021, p 20.

334 *Gaming Control Act*, s 27(4)(a).

335 Exhibit 76, OR: BCLC Standards and Service Agreements; Exhibit 572, Services Agreement 2005.

336 Exhibit 507, Sturko #1, exhibit E; Exhibit 112, Schalk Letter February 2011; Exhibit 108, Dickson Letter April 2010; Exhibit 110, Dickson Letter November 2010; Evidence of K. Ackles, Transcript, November 2, 2020, pp 11–12, 174–75; Evidence of R. Barber, Transcript, November 3, 2020, pp 13–15, 97–100; Evidence of D. Dickson, Transcript, January 22, 2021, p 6; Evidence of J. Schalk, Transcript, January 22, 2021, pp 111–14; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 56, 114, 173; Exhibit 181, Vander Graaf #1, para 54; Exhibit 145, Barber #1, paras 29–30.

337 Exhibit 108, Dickson Letter April 2010; Exhibit 110, Dickson Letter November 2010; Exhibit 112, Schalk Letter February 2011; Exhibit 488, Schalk Letter December 2012; Exhibit 181, Vander Graaf #1, paras 37–38, 101, 113, 132–38 and exhibits G–R; Evidence of D. Sturko, Transcript, January 28, 2021, p 120; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 104–7; Exhibit 507, Sturko #1, exhibit E; Evidence of L. Wanamaker, Transcript, April 22, 2021, pp 6–8, 28; Evidence of R. Coleman, Transcript, April 28, 2021, pp 110–15; Evidence of S. Birge, Transcript, February 3, 2021, pp 16–24; Evidence of J. Schalk, Transcript, January 22, 2021, pp 149–52; Evidence of D. Scott, Transcript, February 8, 2021, pp 17–20; Evidence of J. Mazure, Transcript, February 5, 2021, pp 8–11; Exhibit 587, Meilleur #1, para 24.

338 Exhibit 181, Vander Graaf #1, paras 140–44 and exhibit QQ; Evidence of J. Schalk, Transcript, pp 152–53.

339 Exhibit 587, Meilleur #1, para 29.

Ironically, mere months after the investigation division was eliminated and its leadership terminated, those who remained in relevant leadership positions within GPEB developed an appreciation of the urgency of the money laundering crisis facing the industry.[340] Apparently recognizing the limits of its own authority, GPEB took action to bring the volume of illicit funds accepted by the province's casinos to the attention of the responsible minister,[341] resulting in provincial government action to respond to the problem.[342] Unfortunately, the action taken by government at this time proved inadequate, and GPEB failed to seek further necessary intervention from the responsible minister.

Dr. German's review marked an important turning point for the GPEB and its efforts to respond to money laundering in the gaming industry. GPEB had limited involvement in the implementation of Dr. German's source-of-funds recommendation and, as such, cannot be said to have played a pivotal role in finally resolving the issue of money laundering through large cash transactions. However, following the delivery of Dr. German's first interim recommendations, GPEB began to finally implement meaningful changes that, in my view, will serve the industry and the province well moving forward. Accordingly, there is reason for optimism that GPEB – or its successor agency – will be well positioned to contribute to addressing the risk of money laundering in the industry moving forward.

Role of GPEB in the Province's Gaming Industry

While distinct from BCLC's function, GPEB's role in the gaming industry and its place in government meant that, at all times, it was well positioned to respond to money laundering in the province's casinos. Throughout the rise and perpetuation of money laundering in the industry, GPEB had access to ample information necessary to understand the nature and extent of the problem as it grew, as well as a public interest mandate giving it clear responsibility to act in response to this information. Though it did not, prior to 2018,[343] have direct authority over BCLC, it nevertheless had significant influence over activities in the province's casinos as well as the capacity to seek the intervention of the responsible minister in the event it was not able to adequately address the issue using its own authority.

340 Evidence of K. Ackles, Transcript, November 2, 2020, p 47; Exhibit 587, Meilleur #1, paras 86–92; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 72–73; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 45–47; Exhibit 541, Mazure #1, paras 146–51; Evidence of J. Mazure, Transcript, February 5, 2021, pp 113–14; Exhibit 541, Mazure #1, paras 146–47; Exhibit 922, Wenezenki-Yolland #1, paras 103–14.

341 Evidence of M. de Jong, Transcript, April 23, 2021, pp 66–69; Exhibit 541, Mazure #1, para 181; Evidence of J. Mazure, Transcript, February 5, 2021, pp 114–18; Exhibit 922, Wenezenki-Yolland #1, paras 119–20; Exhibit 552, MOF Strategy; Exhibit 553, MOF Briefing Document, Options for Issuing Anti–Money Laundering Directives to BCLC (September 1, 2015) [MOF Briefing Document].

342 Exhibit 541, Mazure #1, para 199; Exhibit 900, de Jong Letter 2015.

343 *Gaming Control Act*, s 28; Exhibit 541, Mazure #1, para 224; Evidence of S. MacLeod, Transcript, April 19, 2021, p 20.

Information Available to GPEB

From the very beginning of the rise of suspicious transactions in British Columbia's gaming industry, GPEB had access to a wealth of information allowing it to identify the nature and extent of the money laundering crisis emerging in the province's casinos. At all relevant times, service providers, registered gaming workers, and BCLC were obligated, under section 86 of the *Gaming Control Act*, to report to GPEB events related to the commission of offences under the *Criminal Code*, if those events were relevant to a lottery scheme or horse racing, or the *Gaming Control Act*. As indicated in a series of notices issued by GPEB,[344] this included activity related to money laundering. Consequently, GPEB received a significant volume of reports about suspicious transactions in the province's casinos.

Statistics compiled by GPEB's investigation and compliance divisions offer some insight into the volume of reporting about suspicious cash transactions received by the Branch pursuant to section 86 – and the growth in those reports over time. In 2008–09, the Branch received 103 such reports,[345] growing to 117, 459, and 861 in 2009–10, 2010–11, and 2011–12, respectively,[346] before increasing to 1,062 reports in 2012–13,[347] 1,382 reports in 2013–14,[348] and peaking at 1,889 in 2014–15.[349] While the section 86 reports themselves included very little information,[350] it is clear that GPEB investigators could – and routinely did – seek additional information from service providers and BCLC about these transactions.[351] The level of information available to GPEB investigators is evident from the reports of findings compiled by these investigators and forwarded to investigation division management and, ultimately, the general managers of the Branch.[352] These reports set out highly detailed information about individual suspicious transactions occurring in the province's casinos and trends in these transactions over time, demonstrating the level of insight that GPEB had into these activities.

Outside of the casino environment, GPEB had access to law enforcement information not available to BCLC. As discussed previously, the status of GPEB's investigators as special provincial constables allowed them some access to police databases.[353] The GPEB investigation division also had a relationship with law enforcement that permitted it to consult with police about the significance of suspicious transactions, as is reflected in the

344 Exhibit 181, Vander Graaf #1, exhibit A; Exhibit 587, Meilleur #1, exhibit H; Exhibit 144, Ackles #3, exhibit A.

345 Exhibit 181, Vander Graaf #1, exhibit O.

346 Ibid.

347 Ibid.

348 Ibid, exhibit Q.

349 Exhibit 587, Meilleur #1, exhibit UUU.

350 Exhibit 144, Ackles #3, exhibit B.

351 Ibid, paras 10–17; Exhibit 145, Barber #1, paras 28–35; Evidence of D. Dickson, Transcript, January 22, 2021, pp 7–8.

352 Exhibit 181, Vander Graaf #1, exhibits G–H, J–Q; Exhibit 507, Sturko #1, exhibit E.

353 Evidence of R. Barber, Transcript, November 3, 2020, p 17; Evidence of G. Friesen, Transcript, October 29, 2020, pp 8–9; Evidence of S. Lee, Transcript, October 27, pp 60–61; Evidence of K. Ackles, Transcript, November 2, 2020, pp 14–15.

division's correspondence with BCLC,[354] and which resulted in GPEB playing a role in the IPOC intelligence probe into suspicious activity in casinos that commenced in 2010.[355] While GPEB does not appear to have had access to the information gleaned from that probe,[356] it was aware, at the very least, that it was occurring.

In light of the foregoing, it is obvious that GPEB had the information necessary to recognize the seriousness of the money laundering crisis emerging in the province's casinos and the urgency of the need for action in response to this brewing crisis. Indeed, based on this information, members of the GPEB investigation division clearly *did* recognize the significance of the obviously suspicious activity taking place in the industry and went to great effort to warn others within the Branch – and outside of it – of their grave concerns about this activity.[357]

GPEB's Public Interest Mandate

In addition to having the information necessary to identify the presence and scale of money laundering in the gaming industry, GPEB's mandate clearly establishes that it had a responsibility to take action in response. During the Commission's hearings, significant attention was devoted to the question of whether GPEB had an "anti–money laundering mandate." In my view, the Branch's statutory mandate set out in section 23 of the *Gaming Control Act*, which provides that GPEB "is responsible for the overall integrity of gaming and horse racing," establishes that it does. It is difficult to envision a clearer threat to the integrity of gaming than rampant money laundering in the province's casinos and, as such, I conclude that responding to money laundering fell squarely within GPEB's mandate. I do not view this, in principle, as an area of serious dispute. While there was some debate about what the Branch could do in furtherance of this mandate, neither GPEB itself nor any of its current or former employees suggested that money laundering was not the Branch's concern or that it had no responsibility to respond to this issue to the extent that it could.

I recognize that the question of whether GPEB had a mandate to act is distinct from the extent of its authority and capacity to take specific actions in response to this issue, which I will address later in this chapter. However, I am satisfied that, in principle,

354 Evidence of J. Schalk, Transcript, January 22, 2021, pp 181–82; Exhibit 110, Dickson Letter November 2010; Exhibit 112, Schalk Letter February 2011; Evidence of R. Barber, Transcript, November 3, 2020, pp 39–40.

355 Evidence of R. Barber, Transcript, November 3, 2020, pp 40–43.

356 Ibid, p 43.

357 Exhibit 507, Sturko #1, exhibit E; Exhibit 112, Schalk Letter February 2011; Exhibit 108, Dickson Letter April 2010; Exhibit 110, Dickson Letter November 2010; Evidence of K. Ackles, Transcript, November 2, 2020, pp 11–12, 174–75; Evidence of R. Barber, Transcript, November 3, 2020, pp 13–15, 97–100; Evidence of D. Dickson, Transcript, January 22, 2021, p 6; Evidence of J. Schalk, Transcript, January 22, 2021, pp 111–14, 149–52; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 56, 114, 173; Exhibit 181, Vander Graaf #1, para 37–38, 54, 101, 113, 132–38 and exhibits G–R; Exhibit 145, Barber #1, paras 29–30; Exhibit 488, Schalk Letter December 2012; Evidence of L. Wanamaker, Transcript, April 22, 2021, pp 6–8, 28; Evidence of R. Coleman, Transcript, April 28, 2021, pp 110–15; Evidence of S. Birge, Transcript, February 3, 2021, pp 16–24; Evidence of J. Schalk, Transcript, January 22, 2021, pp 149–52; Evidence of D. Scott, Transcript, February 8, 2021, pp 17–20; Evidence of J. Mazure, Transcript, February 5, 2021, pp 8–11; Exhibit 587, Meilleur #1, para 24.

GPEB had – and continues to have – a mandate to respond to money laundering in the gaming industry to the extent that it is able. Accordingly, at all times, it had a clear responsibility to respond to this growing crisis. The extent to which the Branch's actions contributed to the growth and perpetuation of money laundering in the gaming industry must be considered in the context of this clear mandate to act.

GPEB's Control over the Gaming Industry

GPEB did not, prior to 2018, have a level of direct control over activity in British Columbia's casinos that matched that of BCLC. However, it is clear, in my view, that it nevertheless had significant influence over the province's gaming industry and the capacity to take meaningful action to address the suspicious transactions prevalent in the industry between 2008 and 2018.

GPEB is not a party to operational services agreements with service providers[358] and does not have a mandate to conduct and manage gaming in British Columbia.[359] In fact, section 27(4)(a) of the *Gaming Control Act* provides that the general manager of the Branch "must *not* conduct, manage, operate or present gaming or horse races" [emphasis added]. In addition, until 2018, the general manager did not have the authority to issue directives to BCLC without the consent of the responsible minister.[360] These features of the legislative regime governing gaming make clear not only that GPEB was intended to play a different, and less direct, role in the day-to-day operation of the industry from that contemplated for BCLC, but also that it was not, prior to 2018, expected to fulfill a unilateral supervisory role with respect to BCLC.

This does not mean, however, that GPEB had no influence over the industry or BCLC. At all relevant times, GPEB had the capacity to set terms and conditions of registration for service providers and registered gaming workers and to issue public interest standards, either of which would have been binding on service providers and/or their employees. While there was clearly some uncertainty as to the extent of these authorities, the general manager of GPEB always had the option of seeking the responsible minister's consent to issue a directive to BCLC (or a directive directly from the minister). That the general manager could seek such consent is a clear indication that the legislation contemplated that she or he, in conjunction with the responsible minister, was expected to fulfill an oversight role in respect of BCLC, including intervention as necessary to safeguard the integrity of gaming.

Public Interest Standards, Terms and Conditions of Registration, and Directives to BCLC

Section 27(2)(d) of the *Gaming Control Act* authorizes the general manager of the Branch to establish public interest standards "including but not limited to extension

358 Exhibit 572, Services Agreement 2005; Exhibit 76, OR: BCLC Standards and Service Agreements.

359 *Gaming Control Act*, s 27(4)(a).

360 Ibid, s 28; Exhibit 541, Mazure #1, para 224; Evidence of S. MacLeod, Transcript, April 19, 2021, p 20; Exhibit 144.

of credit, advertising, types of activities allowed, and policies to address problem gambling…", with which service providers must comply. Section 56(3) of the Act empowers the general manager to set terms and conditions of registration, provided they do not conflict with the conditions set out in the *Gaming Control Regulation*, BC Reg 208/2002.

Viewed in isolation, these provisions would seem to offer the general manager broad latitude to provide binding direction to service providers with respect to the treatment of suspicious cash transactions or any number of other matters. The precise authority granted by these provisions is complicated, however, when considered alongside the requirement set out in section 27(4)(a) of the Act that the general manager not "conduct, manage, operate, or present gaming or horse races." The purpose of this provision seems to be to create distinct and separate spheres of authority for GPEB and BCLC. Precisely where the divide lies between the roles of the two organizations is not at all clear from the legislation, nor does it appear to have been resolved by the courts.

The use of these authorities to respond to the issue of large and suspicious cash transactions was proposed on multiple occasions within GPEB.[361] It is apparent from the evidence before me that those working within GPEB during the relevant time period, including Mr. Mazure, ultimately concluded that these powers could not be exercised in this way.[362] The evidentiary record as to the basis for this conclusion is not entirely satisfactory,[363] but I note that the current director of GPEB's corporate registration unit gave evidence that he did not understand it to be within his authority to impose "conditions on a facility operator relating to suspicious cash transactions."[364]

Because the general manager of GPEB always had the ability to seek the intervention of the responsible minister, however, it is not necessary to resolve this issue in order to understand the authority of the general manager to take action in response to suspicious transactions in the province's casinos. There is no ambiguity in GPEB's authority – and responsibility – to seek the minister's intervention where it is required. Section 27(2) of the *Gaming Control Act* clearly charges the general manager with the responsibility to "advise the minister on broad policy, standards and regulatory issues" and to "develop, manage and maintain the government's gaming policy" under the

361 Evidence of L. Meilleur, Transcript, March 10, 2021, pp 178–80; Exhibit 712, Email from Len Meilleur to Bill McCrea re Personal Notes of Len Meilleur (June 4, 2013) [Meilleur Email 2013]; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 92–93; Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 46–51, 97–99, 116–17; Exhibit 181, Vander Graaf #1, paras 60–64, exhibit S; Evidence of J. Mazure, Transcript, February 5, 2021, pp 46–55; Evidence of D. Sturko, Transcript, January 28, 2021, pp 120–22.

362 Evidence of J. Mazure, Transcript, February 5, 2021, pp 53–55; Evidence of L. Meilleur, Transcript, March 10, 2021, pp 26–27, 178–80; Exhibit 712, Meilleur Email 2013.

363 Evidence of J. Mazure, Transcript, February 5, 2021, pp 53–55; Evidence of L. Meilleur, Transcript, March 10, 2021, pp 26–27, 178–80; Exhibit 712, Meilleur Email 2013; Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 97–98, 116–17; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 221, 223–24; Exhibit 922, Wenezenki-Yolland #1, para 93; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 85–86.

364 Exhibit 782, Affidavit #1 of Robin Jomha, made on March 24, 2021, para 42.

minister's direction. In my view, these provisions clearly require the Branch to seek the minister's involvement on pressing policy and regulatory matters facing the industry. Further section 28 of the Act empowers the general manager to issue binding directives to BCLC. Prior to 2018, the general manager required the consent of the minister to issue such a directive,[365] but it is clear that the Act contemplated the general manager seeking such consent and, in my view, this option must be taken into account in considering the extent of GPEB's influence over the industry and the extent to which its actions contributed to the growth and perpetuation of money laundering in the gaming industry. As such, I do not accept that the limits of the general manager's authorities to issue public interest standards or set terms and conditions of registration, whatever they may have been, imposed meaningful limits on the action open to the general manager of GPEB. The general manager always had the option of seeking the intervention of the minister and in the absence of an attempt to do so – a step not taken until September 2015 – he or she cannot be said to have exhausted all avenues of intervention.

Contribution of GPEB's Actions to Money Laundering in BC's Gaming Industry Prior to the Summer of 2015

In considering the extent to which the actions of GPEB contributed to the rise of money laundering in the gaming industry prior to the summer of 2015, it is necessary to consider the role of the investigation division separately from that of GPEB generally and, in particular, the three permanent general managers who led GPEB during this time period. With the possible exception of isolated individuals in other organizations, the investigation division was unique in the speed and accuracy with which it identified the nature and severity of the crisis developing in the industry. In response, it made extensive, though ultimately unsuccessful, efforts to persuade others to take action to address the suspicious transactions taking place with increasing regularity in the province's casinos.

The investigation division's efforts in this regard far exceeded those of GPEB generally. It is clear that the three permanent general managers who led the Branch during this time period failed to appreciate the urgency of the growing prevalence of illicit cash in the province's gaming industry. This is particularly troubling given that members of GPEB's own investigation division had identified and were reporting on the growing problem of illicit cash in Lower Mainland casinos. While GPEB took some limited action during this period to bolster the industry's anti–money laundering regime, this action was largely limited to collaborating with BCLC to develop and promote voluntary cash alternatives, and fell far short of what was called for in the circumstances.

Actions of the GPEB Investigation Division

Under the leadership of Mr. Vander Graaf, the investigation division recognized the emerging money laundering crisis early in its evolution and made significant efforts to warn

365 *Gaming Control Act*, s 28; Exhibit 541, Mazure #1, para 224; Evidence of S. MacLeod, Transcript, April 19, 2021, p 20.

GPEB's leadership, law enforcement, BCLC, and government of the risk facing the industry. Mr. Vander Graaf and Mr. Schalk both gave evidence that the division identified an increase in large and suspicious cash transactions in the province's casinos in 2007 or 2008 and that this issue became a focus for the division around this time.[366] By 2008, the investigation division was in contact with the RCMP IPOC unit about this issue and had begun to receive advice from this unit bolstering the division's concerns.[367] From this point forward, the investigation division seems to have voiced its concerns about suspicious transactions in the gaming industry internally within GPEB and externally at every opportunity.[368]

The evidence before me indicates that most of the division's efforts to raise concerns about suspicious cash within the gaming industry were focused internally within GPEB. The impression one gets from the evidentiary record before the Commission is that it was rare for a day to go by that Mr. Vander Graaf, Mr. Schalk, or their colleagues in the division did not raise these concerns with their colleagues and superiors elsewhere in GPEB. As early as 2008, members of the division were raising these concerns in meetings and conversations with the succession of general managers under whom Mr. Vander Graaf served[369] and in writing through memoranda, emails, reports of findings, and other documents.[370] In addition to identifying the problem as understood by the division, these communications also regularly proposed solutions that, unlike the measures introduced by BCLC during this period, were aimed directly at reducing the volume of suspicious cash being accepted in the province's casinos. The measures proposed by the division included, for example, barring patrons from obtaining funds from cash facilitators,[371] enhanced due diligence on the "origin of funds" at the time of acceptance,[372] and mandatory refusal of cash transactions in specific amounts and/or denominations.[373]

366 Exhibit 181, Vander Graaf #1, paras 35–38 and exhibit G; Evidence of J. Schalk, Transcript, January 22, 2021, p 109; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 48, 51–52, 165–66 and Transcript, November 13, 2020, p 39.

367 Evidence of J. Schalk, Transcript, January 22, 2021, pp 181–82.

368 Exhibit 507, Sturko #1, exhibit E; Exhibit 112, Schalk Letter February 2011; Exhibit 108, Dickson Letter April 2010; Exhibit 110, Dickson Letter November 2010; Evidence of K. Ackles, Transcript, November 2, 2020, pp 11–12, 174–75; Evidence of R. Barber, Transcript, November 3, 2020, pp 13–15, 97–100; Evidence of D. Dickson, Transcript, January 22, 2021, p 6; Evidence of J. Schalk, Transcript, January 22, 2021, pp 111–14, 149–52; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 56, 114, 173; Exhibit 181, Vander Graaf #1, para 37–38, 54, 101, 113, 132–38 and exhibits G–R; Exhibit 145, Barber #1, paras 29–30; Exhibit 488, Schalk Letter December 2012; Evidence of L. Wanamaker, Transcript, April 22, 2021, pp 6–8, 28; Evidence of R. Coleman, Transcript, April 28, 2021, pp 110–15; Evidence of S. Birge, Transcript, February 3, 2021, pp 16–24; Evidence of J. Schalk, Transcript, January 22, 2021, pp 149–52; Evidence of D. Scott, Transcript, February 8, 2021, pp 17–20; Evidence of J. Mazure, Transcript, February 5, 2021, pp 8–11; Exhibit 587, Meilleur #1, para 24.

369 Exhibit 181, Vander Graaf #1, paras 35–38; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 53–54; Evidence of D. Scott, Transcript, February 8, 2021, pp 6–7, 14–15, 17–18; Evidence of D. Sturko, Transcript, January 28, 2021, p 120; Evidence of J. Mazure, Transcript, February 5, 2021, pp 8–11; Evidence of J. Schalk, Transcript, January 22, 2021, pp 140–41, 149–52.

370 Exhibit 181, Vander Graaf #1, paras 34, 41–52, 82–84 and exhibits G–S, Y; Evidence of D. Scott, Transcript, February 8, 2021, pp 17–18; Exhibit 507, Sturko #1, exhibit E; Evidence of D. Dickson, Transcript, January 22, 2021, p 11; Evidence of J. Schalk, Transcript, January 2021, pp 140–41.

371 Exhibit 181, Vander Graaf #1, exhibit H.

372 Ibid, exhibit Q.

373 Ibid, exhibits R, Y, Z.

The investigation division raised similar concerns with BCLC directly, primarily in a series of letters between members of the investigation division and members of BCLC's corporate security and compliance unit between 2010 and 2012.[374] These letters, discussed in detail in Chapter 10, described obviously suspicious activity occurring in the province's casinos, identified the investigation division's concerns that this activity was connected to money laundering, and indicated that law enforcement shared these concerns. As with its efforts to raise these issues within GPEB, these letters also identified recommendations for addressing these concerns, typically focused directly at reducing the volume of suspicious cash being accepted by casinos. Further, as discussed previously, this correspondence also specifically identified the money laundering typology at issue in casinos,[375] which should, but clearly did not, have had the effect of refuting BCLC's repeated contention that the patrons putting their funds at risk and often losing it indicated that this activity did not amount to money laundering.[376]

The investigation division's efforts to inspire action in response to suspicious activity in the province's casinos also extended to law enforcement. As indicated above, the division had begun discussing its concerns about suspicious activity in casinos with the RCMP IPOC unit by 2008[377] and routinely forwarded reports of suspicious activity in casinos to the unit in the years that followed.[378] It appears that, in 2010, these efforts were having their intended effect, as the IPOC unit commenced a probe focused on suspicious transactions in casinos, to which GPEB assigned three investigators.[379] Despite the promising initial results of the probe,[380] as I discuss in Chapter 39, it was terminated when IPOC was disbanded and did not achieve the results the division clearly hoped for.

Finally, while the opportunities to do so were rare, Mr. Vander Graaf and his colleagues also took advantage of opportunities to raise their concerns directly with senior government officials. In 2008, a GPEB investigator voiced his belief that the province's casinos had a "money laundering problem" at a meeting attended by a deputy minister.[381] In 2010, Mr. Vander Graaf expressed his concerns in a meeting with Mr. Coleman, then the minister responsible for gaming, and Lori Wanamaker, Mr. Coleman's deputy

374 Exhibit 108, Dickson Letter April 2010; Exhibit 109, Friesen Letter 2010; Exhibit 110, Dickson Letter November 2010; Exhibit 111, Karlovcec Letter December 2010; Exhibit 112, Schalk Letter February 2011; Exhibit 488, Schalk Letter December 2012.

375 Exhibit 112, Schalk Letter February 2011.

376 Evidence of T. Towns, Transcript, January 29, 2021, pp 147–49, 166; Exhibit 166, Hiller #1, para 84; Exhibit 111, Karlovcec Letter December 2010; Exhibit 522, Desmarais #1, exhibit 37; Exhibit 78, Beeksma #1, para 53; Evidence of S. Beeksma, Transcript, October 26, 2020, p 75; Evidence of G. Friesen, Transcript October 29, 2020, p 4; Evidence of J. Karlovcec, Transcript, October 29, 2020, pp 105–6, 111–12; Evidence of J. Karlovcec, Transcript, October 30, 2020, pp 196–97; Evidence of M. Hiller, Transcript, November 9, 2020, pp 27–29; Exhibit 141, Summary Review 2011, p 3.

377 Evidence of J. Schalk, Transcript, January 22, 2021, p 181.

378 Evidence of D. Dickson, Transcript, January 22, 2021, p 12.

379 Evidence of R. Barber, Transcript, November 3, 2021, pp 40–42; Exhibit 145, Barber #1, paras 51–57.

380 Evidence of M. Paddon, Transcript, April 14, 2021, pp 16–18.

381 Exhibit 181, Vander Graaf #1, para 37; Evidence of J. Schalk, Transcript, January 22, 2021, p 141.

minister.[382] This meeting with Mr. Vander Graaf prompted Mr. Coleman to engage Mr. Kroeker to conduct an independent review of anti–money laundering measures in the gaming industry.[383] When Mr. Vander Graaf met with Mr. Kroeker as part of this review, Mr. Vander Graaf again shared his concerns and his recommendations and subsequently provided feedback on a draft of Mr. Kroeker's report,[384] clearly in the hope that they would be reflected in his report when presented to government. Similarly, when asked by interim general manager Sue Birge to prepare a "Q&A" document intended to assist in briefing the responsible minister, Mr. Vander Graaf instead prepared a lengthy summary of his concerns about money laundering in the industry, again clearly in the hope these would be provided to the minister.[385] These instances of the investigation division communicating directly to government are rare, as it does not appear to have been within the normal duties of Mr. Vander Graaf or his subordinates to regularly engage with government officials above the rank of the general manager. That they seem to have unfailingly taken the few opportunities they did have to speak with senior government officials to press their concerns about money laundering speaks to their persistence in raising the alarm about these issues.

Regrettably, these efforts did not result in meaningful action to address the growing suspicious activity in the province's casinos during this time period. Still, the significance of the division's efforts to raise the alarm about money laundering in the industry should not be overlooked. Mr. Vander Graaf and his colleagues recognized the magnitude of the emerging money laundering crisis virtually at the moment it began and soon identified the precise money laundering typology connected to the suspicious activity in casinos. They offered recommendations that, if implemented, would have likely brought the problem to a halt before it flourished. By identifying for GPEB and BCLC both the problem and the solution, Mr. Vander Graaf and his colleagues provided the industry with the road map it needed to navigate its way, unharmed, out of the hazardous territory it had entered. Mr. Vander Graaf and the investigation division did so without access to any special information or intelligence that gave them an enhanced opportunity to identify the emerging and growing problem with illicit cash and money laundering in casinos. They were simply seeing and reporting on patterns and trends that should have alerted anyone connected to the industry that a serious problem was emerging.

Actions of GPEB Generally

Leaving aside the distinct actions of the investigation division, the actions of GPEB during this period played a significant contributing role in enabling the growth and

382 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 104–7; Evidence of R. Coleman, Transcript, April 28, 2021, pp 110–15; Exhibit 181, Vander Graaf #1, paras 132–35; Evidence of L. Wanamaker, Transcript, April 22, 2021, pp 6–8.

383 Evidence of R. Coleman, Transcript, April 28, 2021, pp 114, 141–42.

384 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 141–47 and Transcript, November 13, 2020, pp 120–22; Exhibit 181, Vander Graaf #1, paras 71–76 and exhibit V; Exhibit 490, Kroeker #1, paras 25–26 and exhibit 3; Evidence of R. Kroeker, Transcript, January 25, 2021, pp 82–87.

385 Exhibit 181, Vander Graaf #1, paras 82–84 and exhibits Y, Z; Evidence of S. Birge, Transcript, February 3, 2021, p 16–20; Exhibit 527, Birge #1, paras 38–39.

perpetuation of money laundering in the province's casinos. As noted above, the Branch's leadership, including successive general managers, received nearly constant warnings from the investigation division as to the severity of the money laundering crisis building in the industry that GPEB was responsible for regulating.[386] Rather than following the recommendations that accompanied these warnings or otherwise taking action to address the concerns raised by Mr. Vander Graaf and his colleagues, GPEB focused its efforts during this time period primarily on the introduction of voluntary cash alternatives.

Focus on Introduction of Voluntary Cash Alternatives

As the investigation division repeatedly raised the alarm about growing money laundering in the gaming industry and recommended meaningful action to reduce suspicious cash in the province's casinos, the anti–money laundering efforts of the remainder of GPEB were focused primarily on the development of voluntary cash alternatives.[387] As discussed in Chapter 12, GPEB renewed its efforts to respond to the risk of money laundering in the gaming industry in the wake of Mr. Kroeker's 2011 report.[388] In September 2011, GPEB formed a cross-divisional working group with the following strategic focus:[389]

> The gaming industry will prevent money laundering in gaming by moving from a cash-based industry as quickly as possible and scrutinizing the remaining cash for appropriate action. This shift will respect or enhance our responsible gambling practices and the health of the industry.

Over the course of the remainder of 2011 and beginning of 2012, this group developed a three-phase anti–money laundering strategy.[390] The first phase involved the introduction and promotion of cash alternatives as GPEB continued to gather information on the nature of cash being used in the industry.[391] The second involved BCLC and service providers more actively engaging in the promotion of cash alternatives with "high-volume patrons" and the introduction of enhanced customer

386 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 53–54, 66– 67; Evidence of D. Scott, Transcript, February 8, 2021, pp 17–20, 36–37; Evidence of D. Sturko, Transcript, January 28, 2021, p 120; Evidence of J. Mazure, Transcript, February 5, 2021, pp 8–11; Exhibit 144, Ackles #3, para 21; Exhibit 181, Vander Graaf #1, paras 37–41, 60–64, 82–84, 136–39 and exhibits G–S, X, Y, Z, OO, PP; Evidence of D. Dickson, Transcript, January 22, 2021, pp 79–82; Evidence of J. Schalk, Transcript, January 22, 2021, pp 140–43, 149–52, 163; Exhibit 557, Scott #1, paras 34–37; Exhibit 507, Sturko #1, paras 92–95 and exhibit E.

387 Evidence of D. Scott, Transcript, February 8, 2021, pp 28–32, 38–43, 97, 107–8; Evidence of M. de Jong, Transcript, April 23, 2021, pp 23–24, 46–48; Evidence of J. Mazure, Transcript, February 5, 2021, pp 18–19, 30–31; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 82–83, 118–19; Exhibit 557, Scott #1, paras 40–42.

388 Evidence of L. Vander Graaf, Transcript, November 13, 2020, pp 164–67; Exhibit 557, Scott #1, paras 27–31; Exhibit 181, Vander Graaf #1, paras 77–81; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 82–83, 117–19.

389 Exhibit 181, Vander Graaf #1, paras 77–81 and exhibit O; Exhibit 557, Scott #1, paras 27–33.

390 Evidence of D. Scott, Transcript, February 8, 2021, p 28; Exhibit 557, Scott #1, para 40.

391 Evidence of D. Scott, Transcript, February 8, 2021, pp 32–33; Exhibit 557, Scott #1, para 40.

due diligence and analytical capacity.[392] The third, which Mr. Scott testified would have been necessary only if the first two phases did not achieve the desired outcomes,[393] involved direct regulatory action by GPEB to prevent money laundering.[394] Phase one was intended to commence in April 2012, phase two in May 2013, and phase three, if required, in December 2013.[395]

In their evidence, Mr. Scott, who served as the general manager of GPEB when this strategy was developed, and Mr. Mazure, who succeeded him, both agreed that, in retrospect, this strategy should have been rolled out more quickly.[396] I agree with this assessment. Moreover, in my view, this should have been clear at the time that the strategy was developed. The investigation division, by this point, had been warning GPEB for years about the growth of suspicious cash and – in the view of the division – the certainty that it was connected to money laundering.[397] Despite these warnings, GPEB made a plan that contemplated no action at all to require that even the most suspicious transactions be turned away for nearly two years following its initiation. While I acknowledge Mr. Scott's evidence that he anticipated concurrent intervention with high-risk patrons by BCLC in the form of interviews about the source of the funds those patrons were using to gamble, it is clear from his evidence that it soon became apparent to him that BCLC was unwilling to take this step. He did not, in response, accelerate plans to have GPEB intervene more directly in suspicious activity in casinos, including by conducting such interviews themselves.[398] I note as well that even if BCLC had taken the step of interviewing patrons, as suggested by Mr. Scott, this action would have been targeted specifically at high-risk patrons and not broadly applicable to all suspicious transactions.

Instead, the focus of the first two phases of this strategy was on the introduction and promotion of voluntary alternatives to the use of cash.[399] There is nothing wrong with the inclusion of cash alternatives as part of a strategy for addressing suspicious cash in the industry. If the industry was intent on moving players away from cash, there would be an obvious need to provide alternative means by which they could buy in and gamble. The evidence demonstrates, however, that GPEB was under no illusion that

392 Exhibit 557, Scott #1, para 40.

393 Ibid, para 40; Evidence of D. Scott, Transcript, February 8, 2021, pp 29–30, 170–71.

394 Exhibit 557, Scott #1, para 40.

395 Ibid.

396 Evidence of D. Scott, Transcript, February 8, 2021, pp 40–41, 90; Evidence of J. Mazure, Transcript, February 5, 2021, pp 33–34.

397 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 53–54, 66–67; Evidence of D. Scott, Transcript, February 8, 2021, pp 17–20, 36–37; Evidence of D. Sturko, Transcript, January 28, 2021, p 120; Evidence of J. Mazure, Transcript, February 5, 2021, pp 8–11; Exhibit 144, Ackles #3, para 21; Exhibit 181, Vander Graaf #1, paras 37–41, 60–64, 82–84, 136–39, and exhibits G–S, X, Y, Z, OO, PP; Evidence of D. Dickson, Transcript, January 22, 2021, pp 79–82; Evidence of J. Schalk, Transcript, January 22, 2021, pp 140–43, 149–52, 163; Exhibit 557, Scott #1, paras 34–37; Exhibit 507, Sturko #1, paras 92–95 and exhibit E.

398 Exhibit 557, Scott #1, paras 73–74; Evidence of D. Scott, Transcript, February 8, 2021, pp 53–56.

399 Evidence of D. Scott, Transcript, February 8, 2021, pp 28–32, 38–43, 97, 107–8; Evidence of M. de Jong, Transcript, April 23, 2021, pp 23–24, 46–48; Evidence of J. Mazure, Transcript, February 5, 2021, pp 18–19, 30–31; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 82–83, 118–19; Exhibit 557, Scott #1, paras 40–42.

voluntary cash alternatives would be sufficient to resolve this issue, even at the time that the strategy was adopted. Mr. Vander Graaf gave evidence that he did not believe this approach was adequate,[400] and even Mr. Scott acknowledged that it did not surprise him "at all" that cash alternatives "didn't change the amount of suspicious cash coming in [to casinos]."[401] Given the rate at which suspicious cash was entering the gaming industry at this time, it was incumbent on GPEB to ensure that immediate action was taken to prevent that cash from being accepted. Trying to entice patrons to move to strictly voluntary cash alternatives without even the expectation that it would stem the flow of suspicious cash was obviously insufficient.

The third phase of the strategy was not implemented in December 2013 as scheduled.[402] By 2015, GPEB was still trying to identify precisely what this phase of the strategy would involve.[403] Based on the evidence before me, it appears that this delay was, in part, the result of GPEB's failure to begin planning for phase three while phases one and two were being deployed.[404] Mr. Scott gave evidence that, being new to government at the time, he failed to appreciate the pace at which government action moved and, as such, did not commence preparations for phase three early enough.[405] Following Mr. Scott's departure from GPEB, it appears this phase of the strategy was further delayed at the outset of Mr. Mazure's tenure due to a review and reorganization of the Branch that he initiated shortly after his appointment.[406] These delays exacerbated the impact of the initial decision to delay implementation of phase three, effectively limiting the industry's efforts to reduce suspicious cash to voluntary cash alternatives until 2015, as the rate at which suspicious cash entered the industry grew, largely without interference, until this time.

Succession of General Managers

Before moving on to the impact of its actions in and following the summer of 2015, it is necessary to comment briefly on the succession of four general managers (three permanent and one interim) that led GPEB over the span of three years. In my view, the turnover in GPEB's leadership provides important context for its actions and omissions during this period and causes me to temper any criticism of the individuals that held these positions. It does not, however, in my view, significantly mitigate GPEB's responsibility for the money laundering crisis that arose during this period.

400 Exhibit 181, Vander Graaf #1, para 67; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 118–19.

401 Evidence of D. Scott, Transcript, February 8, 2021, pp 30–32; Exhibit 557, Scott #1, paras 42.

402 Evidence of J. Mazure, Transcript, February 5, 2021, pp 34, 184–85 and Transcript, February 11, 2021, pp 111–12, 169; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 40–42, 48, 116–22; Exhibit 922, Wenezenki-Yolland #1, paras 82, 88–93.

403 Evidence of J. Mazure, Transcript, February 5, 2021, pp 34, 184–85 and Transcript, February 11, 2021, pp 111–12, 169; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 40–42, 48, 116–22; Exhibit 922, Wenezenki-Yolland #1, paras 82, 88–93.

404 Evidence of D. Scott, Transcript, February 8, 2021, pp 38–41.

405 Ibid.

406 Exhibit 541, Mazure #1, paras 78–124; Exhibit 922, Wenezenki-Yolland #1, paras 59–63; Evidence of J. Mazure, Transcript, February 5, 2021, pp 85–107.

Mr. Sturko, the founding general manager of GPEB,[407] left the Branch for another position in government in December 2010.[408] When Mr. Mazure was appointed to the general manager role in September 2013,[409] he was the third person to occupy the position in less than three years since Mr. Sturko's departure.[410] This high rate of turnover was undoubtedly disruptive to GPEB, and I have no doubt that there was a steep learning curve for each new general manager, particularly Mr. Mazure, who was new to the gaming industry,[411] and Mr. Scott, who was new to the public service entirely.[412] I accept that this turnover mitigates the responsibility borne by each individual general manager, particularly at the beginning of their tenures.

With respect to GPEB generally, had these transitions resulted in delays of a few weeks or even months in actions taken by the Branch to address suspicious transactions, this would be understandable. The failure of GPEB to take any meaningful action until 2015, seven years after the investigation division began to issue warnings about the emerging crisis, simply cannot be explained by staff turnover. While I do not mean to minimize the importance of the role of the general manager, two of the most critical staff members during this period – Mr. Vander Graaf and Mr. Schalk – who were responsible for monitoring suspicious activity in casinos and therefore best positioned to advise the general managers as to the necessary action, were present and forcefully voicing their views throughout this time period.[413] Mr. Sturko,[414] Mr. Scott,[415] and Mr. Mazure[416] were each well aware of these views and had ample time to act on Mr. Vander Graaf's concerns and recommendations. That no meaningful action was taken until 2015, approximately six months after Mr. Vander Graaf and Mr. Schalk had been terminated from their positions, simply cannot be explained by changes in personnel.

407 Exhibit 507, Sturko #1, para 21.

408 Ibid, para 111.

409 Exhibit 541, Mazure #1, para 5.

410 Exhibit 557, Scott #1, para 13; Exhibit 527, Birge #1, para 8.

411 Exhibit 541, Mazure #1, para 9.

412 Evidence of D. Scott, Transcript, February 8, 2021, p 2; Evidence of L. Wanamaker, Transcript, April 22, 2021, p 9.

413 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 53–54, 66–67; Evidence of D. Scott, Transcript, February 8, 2021, pp 17–20, 36–37; Evidence of D. Sturko, Transcript, January 28, 2021, p 120; Evidence of J. Mazure, Transcript, February 5, 2021, pp 8–11; Exhibit 144, Ackles #3, para 21; Exhibit 181, Vander Graaf #1, paras 37–41, 60–64, 82–84, 136–39 and exhibits G–S, X, Y, Z, OO, PP; Evidence of D. Dickson, Transcript, January 22, 2021, pp 79–82; Evidence of J. Schalk, Transcript, January 22, 2021, pp 140–43, 149–52, 163; Exhibit 557, Scott #1, paras 34–37; Exhibit 507, Sturko #1, paras 92–95 and exhibit E.

414 Evidence of D. Sturko, Transcript, January 28, 2021, pp 115, 120–29; Exhibit 181, Vander Graaf #1, exhibit H; Evidence of L. Vander Graaf, Transcript, November 12, 2020, p 67; Exhibit 507, Sturko #1, paras 92–95 and exhibit E; Evidence of J. Schalk, Transcript, January 22, 2021, pp 140–41, 149–52.

415 Evidence of D. Scott, Transcript, February 8, 2021, pp 7, 11, 15, 17–20, 37; Evidence of J. Schalk, Transcript, January 22, 2021, pp 140–41, 149–52.

416 Evidence of J. Mazure, Transcript, February 5, 2021, pp 8–15; Evidence of J. Schalk, Transcript, January 22, 2021, pp 140–41, 149–52.

Contribution of GPEB's Actions Following the Summer of 2015

The efforts of GPEB to respond to suspicious cash transactions in the gaming industry underwent a noteworthy shift around the summer of 2015. This was marked by efforts to persuade government and BCLC to take meaningful action and represented a substantial increase in the efforts of the general manager, relative to his predecessors and his own previous actions, to address the flood of illicit funds then flowing into the province's casinos. While an improvement on previous inaction, these efforts continued to fall short of what was necessary to respond to the magnitude of the crisis facing the gaming industry. In particular, after initially making appropriate and effective efforts to inspire government action, GPEB failed to seek further government intervention when these initial actions failed to achieve the desired results.

Actions Taken in Response to the 2015 Spreadsheet

As described at length in Chapter 11, the summer of 2015 marked an important turning point for efforts to address money laundering in British Columbia's gaming industry. As BCLC formalized and expanded the cash conditions program and related measures, GPEB likewise began to improve upon the minimal efforts described above. In the Branch's case, this improvement primarily took the form of efforts on the part of the general manager, Mr. Mazure, to prompt action from BCLC[417] and Mr. de Jong, then the minister responsible for gaming.[418]

A spreadsheet produced by GPEB investigators Rob Barber and Ken Ackles, discussed in Chapter 11 seems to have been a critical catalyst for this change. This spreadsheet was provided to Len Meilleur, then the executive director of GPEB's compliance division; Cheryl Wenezenki-Yolland, an associate deputy minister within the Ministry of Finance, with responsibility for the gaming portfolio; and Mr. Mazure.[419] It identified all suspicious cash transactions of $50,000 or more (as well as two transactions just below $50,000) that took place in Lower Mainland casinos in the month of July 2015. In total, it indicated that more than $20 million, including over $14 million in $20 bills, had been accepted in such transactions. While the contents of the spreadsheet largely replicated the type of information found in earlier reports of findings and contained minimal analysis, it appears to have had its intended effect of persuading GPEB's leadership of the urgency of the situation and the need for further action.[420] Most significantly, it prompted GPEB

417 Exhibit 505, Lightbody #1, p 35, para 180 and exhibits 48, 54, 55 and 57; Exhibit 541, Mazure #1, paras 152–56; Evidence of J. Mazure, Transcript, February 5, 2021, pp 124–28, 130–32 and 198–201.

418 Evidence of M. de Jong, Transcript, April 23, 2021, pp 66–70; Exhibit 541, Mazure #1, para 181; Evidence of J. Mazure, Transcript, February 5, 2021, pp 114–21; Exhibit 922, Wenezenki-Yolland #1, paras 119–20,134–40; Exhibit 552, MOF Strategy; Exhibit 553, MOF Briefing Document; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 49–52; Exhibit 587, Meilleur #1, paras 86–90.

419 Exhibit 145, Barber #1, paras 92–95 and exhibit F; Exhibit 144, Ackles #3, paras 23–24 and exhibit D; Exhibit 587, Meilleur #1, paras 86–99; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 72–73; Exhibit 541, Mazure #1, paras 142–51; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 45–47.

420 Exhibit 145, Barber #1, paras 92–95; Exhibit 587, Meilleur #1, paras 86–99; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 68–73; Exhibit 541, Mazure #1, paras 142–51; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 45–47; Exhibit 922, Wenezenki-Yolland #1, paras 103–20.

to initiate a briefing with Mr. de Jong.[421] In sharp contrast to the message delivered to government previously,[422] this briefing, which followed closely on the heels of a very limited briefing of Mr. de Jong regarding the E-Pirate investigation,[423] impressed upon Mr. de Jong the urgency and scale of the money laundering crisis facing the industry and sought his direct intervention.[424]

The most significant results of this briefing included the establishment of the Joint Illegal Gaming Investigation Team[425] (the creation of a similar unit had also been recommended separately by Mr. Lightbody shortly before the briefing),[426] and a letter from Mr. de Jong to the BCLC board chair directing the BC Lottery Corporation to take the following actions including, critically, enhancement of processes for evaluating the source of funds prior to cash acceptance:[427]

> 1. Ensure that BCLC's [anti–money laundering] compliance regime is focused on preserving the integrity and reputation of British Columbia's gaming industry in the public interest, including those actions set out in [Mr. Mazure's] letter of August 7 … and any subsequent actions or standards that may follow;
>
> 2. Participate in the development of a coordinated enforcement approach with the Gaming Policy and Enforcement Branch (GPEB), the RCMP, and local police to mitigate the risks of criminal activities in the gaming industry; and
>
> 3. Enhance customer due diligence to mitigate the risk of money laundering in British Columbia gaming facilities through the implementation of [anti–money laundering] compliance best practices including processes for evaluating the source of wealth and source of funds prior to cash acceptance.

Alongside these efforts to encourage Mr. de Jong to take action, GPEB's appreciation for the magnitude of the challenge confronting the gaming industry was also reflected

421 Evidence of M. de Jong, Transcript, April 23, 2021, pp 66–70; Exhibit 541, Mazure #1, para 181; Evidence of J. Mazure, Transcript, February 5, 2021, pp 114–21; Exhibit 922, Wenezenki-Yolland #1, paras 119–20, 134–40; Exhibit 552, MOF Strategy; Exhibit 553, MOF Briefing Document; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 49–52; Exhibit 587, Meilleur #1, paras 86–90.

422 Evidence of J. Mazure, Transcript, February 11, 2021, pp 219–222; Evidence of M. de Jong, Transcript, April 23, 2021, pp 124–27, 131–32, 143–44; Exhibit 541, Mazure #1, paras 41–45; Exhibit 899, Confidential Information Note, re AML (August 24, 2015); Evidence of S. Bond, Transcript, April 22, 2021, pp 69, 79–86; Evidence of D. Scott, Transcript, February 8, 2021, pp 56, 65–75, 77; Exhibit 557, Scott #1, exhibits 27, 31; Exhibit 928, Advice to Minister, Confidential Issues Note, re Anti–Money-Laundering Strategy Update (February 23, 2012) [Advice to Minister Issues Note]; Exhibit 931, Advice to Minister, re Anti Money-Laundering and FINTRAC Compliance (June 14, 2013) [June 14 2013 Briefing Document]; Evidence of R. Coleman, Transcript, April 28, 2021, pp 72–74.

423 Evidence of M. de Jong, Transcript, April 23, 2021, pp 67–71.

424 Ibid, pp 66–69.

425 Evidence of M. de Jong, Transcript, April 23, 2021, pp 31, 80–82, 98–100; Exhibit 902, Morris Letter; Evidence of K. Ackles, Transcript, November 2, 2020, pp 48–52.

426 Exhibit 505, Lightbody #1, p 296 and exhibit 49.

427 Exhibit 900, de Jong Letter 2015.

in other ways. Most significantly, this included GPEB engaging Meyers Norris Penny, an external consulting firm, to conduct a review of the industry's anti–money laundering measures[428] and a series of letters written by Mr. Mazure to Mr. Lightbody between 2015 and 2017, in which Mr. Mazure repeatedly urged Mr. Lightbody to ensure that BCLC take further action to reduce the volume of suspicious cash accepted by casinos.[429]

Limited Impact of Measures in Response to the 2015 Spreadsheet

Based on the actions taken in response to the spreadsheet produced by Mr. Barber and Mr. Ackles, I have no doubt that, by this point, Mr. Mazure had come to appreciate that illicit funds were entering the province's casinos on a massive scale. I accept as well that these actions had some ameliorating effect on this problem. The creation of JIGIT was undoubtedly a significant step for an industry that had long suffered from neglect by law enforcement, and the report prepared by Meyers Norris Penney included several recommendations that were quickly implemented.[430]

It is clear, however, that, like the efforts made by BCLC during this time period, GPEB's response was not commensurate with the scale of the problem. As discussed previously, the number and value of suspicious transactions accepted by the province's casinos remained at alarming levels for years following the September 2015 briefing of Mr. de Jong and as such, GPEB's efforts were clearly insufficient to bring the volume of suspicious cash accepted by casinos down to anything approaching a reasonable level.

It is clear from his evidence and from his persistence in urging Mr. Lightbody to take additional action that Mr. Mazure recognized that the measures implemented at this time were not having their desired effect. Asked whether, in his view, BCLC ever implemented measures that satisfied the requests made in his initial letter of August 7, 2015, Mr. Mazure responded "No. And that's why I kept writing the letters."[431]

Failure to Seek Subsequent Intervention from the Minister

The persistence of this suspicious activity and Mr. Mazure's concerns about BCLC's inaction called for further intervention on the part of the minister in the form of a directive to BCLC from the minister directly or from Mr. Mazure with the minister's consent. In my view, GPEB did not take adequate steps to seek this intervention. Mr. Mazure testified that he believed Mr. de Jong understood his concern that BCLC was not taking appropriate action,[432] and there is evidence that supports that Mr. Mazure endeavoured to communicate this message to Mr. de Jong. It is clear from the evidence of Ms. Wenezenki-Yolland, to whom Mr. Mazure reported, that he had

428 Exhibit 73, OR: Gaming Reports and Recommendations, Appendix J.

429 Exhibit 505, Lightbody #1, exhibits 48, 54, 55, 57.

430 Exhibit 490, Kroeker #1, para 124 and exhibit 51; Exhibit 711, Table of Response to Recommendations in MNP Report; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, p 137.

431 Evidence of J. Mazure, Transcript, February 5, 2021, p 132.

432 Ibid, pp 132–34.

communicated his concerns to her.[433] Ms. Wenezenki-Yolland also gave evidence of a "pre-briefing" on October 12, 2016, in which Mr. Mazure "advise[d] the minister candidly about his disagreements and concerns with BCLC,"[434] as well as a briefing that took place the following day, in which both she and Mr. Mazure advised Mr. de Jong that BCLC was not taking adequate action to determine the source of funds used in large cash buy-ins.[435]

Given this evidence, I accept that Mr. Mazure sought to impress upon Mr. de Jong his concerns about the adequacy of BCLC's response to suspicious cash transactions. What Mr. Mazure did not do, and which in my view was clearly required, was take adequate steps to explicitly seek the minister's direct intervention through a ministerial directive or the minister's consent to a directive from Mr. Mazure. Mr. Mazure gave evidence that he "took every opportunity [he] could to put forward the idea of a directive"[436] at least "where it made sense to do so."[437] I do not accept this evidence. Rather, it is clear from the record before me that he attempted to do so only twice, once in the September 2015 briefing prompted by the spreadsheet prepared by Mr. Barber and Mr. Ackles, and once just prior to the 2017 provincial election.[438]

It should have been apparent to Mr. Mazure that he needed to seek the minister's intervention long before he attempted to do so for the second time prior to that election. Mr. de Jong wrote to BCLC on October 1, 2015, seeking action in response to the volume of suspicious transactions in the province's casinos. Mr. Mazure, who had previously communicated a similar message in an August 2015 letter to Mr. Lightbody, followed up to the minister's letter the following January, expressing concern about the continued prevalence of suspicious cash transactions in the province's casinos and reiterating the need, among other things, to "develop and implement additional Customer Due Diligence … policies and practices … with a focus on identifying source of wealth and funds as integral components to client risk assessment."[439] The following July, Mr. Mazure wrote to Mr. Lightbody again, reminding him that "[t]he Province has previously provided written direction to BCLC to establish the source of funds prior to accepting cash at gaming facilities."[440]

Mr. Mazure testified that he continued to write to Mr. Lightbody because he did not believe that BCLC had taken actions that satisfied his requests or the direction from the minister's October 2015 letter.[441] In my view, it should have been apparent to Mr. Mazure by the time he wrote his January 2016 letter that there was a need for further ministerial

433 Exhibit 922, Wenezenki-Yolland #1, paras 160, 175–80.

434 Ibid, para 175.

435 Ibid, paras 176–80.

436 Evidence of J. Mazure, Transcript, February 5, 2021, p 144.

437 Ibid, pp 147–48.

438 Ibid, pp 143–49; Exhibit 556, February 2017 MOF Briefing Document; Exhibit 922, Wenezenki-Yolland #1, paras 194–210.

439 Exhibit 505, Lightbody #1, exhibit 54.

440 Ibid, exhibit 55.

441 Evidence of J. Mazure, Transcript, February 5, 2021, pp 130–34.

intervention. In the absence of a rapid and significant reversal of BCLC's failure to take the action Mr. Mazure thought necessary, he should have immediately sought such intervention. Instead, he waited nearly a year before attempting to do so (by which time he was told it was not possible due to the upcoming provincial election), as suspicious cash continued to flow into the province's casinos at unacceptable levels.

While the need to seek direct intervention from the minister should have been clear long before the briefing on October 13, 2016, referred to above, this briefing represented an opportunity for Mr. Mazure to have sought a directive and is illustrative of his continued failure to do so. By the time of this briefing, BCLC had been in receipt of Mr. de Jong's letter of October 1, 2015, for over a year and Mr. Mazure had written to Mr. Lightbody on three occasions urging him to ensure that BCLC take more decisive action to reduce the volume of suspicious cash accepted by the province's casinos. Yet, the "next steps" identified in the briefing document presented to Mr. de Jong at this briefing[442] included only that "GPEB and BCLC have established an executive working group that will carefully consider the recommendations and work on next steps."[443] In his evidence, Mr. Mazure described his level of confidence at that point that this "executive working group" would succeed in prompting BCLC to take the action he believed was required as "little to none" but that, in his words "that was the direction given."[444]

I understand the "direction" referred to by Mr. Mazure here was a direction he testified he had been given by Ms. Wenezenki-Yolland that GPEB and BCLC "were to work together on issues."[445] He described his understanding of this direction in his affidavit as follows:[446]

> It was made clear to me by Ms. Wenezenki-Yolland that there was an expectation that I would be expected to work with BCLC to resolve issues and that even though both organizations reported to the Ministry of Finance at the time, issues between the two organizations were not routinely going to be resolved at the Ministerial level. This expectation that GPEB and BCLC were to resolve issues between themselves without the Minister's intervention was consistent throughout my tenure with GPEB.

In her evidence, Ms. Wenezenki-Yolland disputed that this direction precluded Mr. Mazure from raising concerns with Mr. de Jong without the agreement of BCLC. She testified that, at the time she joined the ministry, there was a pre-existing practice in place that BCLC and GPEB would "present joint briefing notes on issues where they had shared accountability."[447] Ms. Wenenzenki-Yolland's evidence was that, while this practice continued during her tenure, it "did not apply to very many

442 Exhibit 922, Wenezenki-Yolland #1, para 176.

443 Exhibit 555, MOF Briefing Document, 2016 MNP Report on Anti–Money Laundering Practices in Gaming Facilities (September 30, 2016).

444 Evidence of J. Mazure, Transcript, February 5, 2021, p 139.

445 Ibid, p 25.

446 Exhibit 541, Mazure #1, para 15.

447 Exhibit 922, Wenezenki-Yolland #1, para 185.

briefing documents."[448] Ms. Wenezenki-Yolland disputed that there was any direction or expectation that disagreements between the two organizations be downplayed. When Mr. Mazure advised her that GPEB and BCLC had differences of opinion, she directed that each organization "set out their respective positions and rationales" in briefing notes provided to the minister "so that the minister could weigh the different perspectives."[449] Ms. Wenezenki-Yolland went on in her evidence to explain that Mr. Mazure also had opportunities to express his views in telephone and in-person briefings, many of which did not include BCLC representatives; that she had few briefings with the minister on matters related to gaming without Mr. Mazure (or someone acting in his stead) present; and that her practice was to have Mr. Mazure lead those briefings.[450] Mr. Mazure himself gave evidence that he could "speak freely" in oral briefings with Mr. de Jong.[451]

I accept Ms. Wenezenki-Yolland's evidence in this regard and reject the notion that Mr. Mazure was somehow prohibited from seeking the minister's direct intervention at or before the October 13, 2016, briefing. It is difficult to understand how, charged with regulating an industry he believed to be rife with criminal activity and illicit funds, Mr. Mazure would have been expected to remain silent about those matters unless BCLC – whom he believed to be the barrier to effective action in response to this problem – agreed that he could raise them. Mr. Mazure had not been restrained by any such direction in raising his concerns about suspicious transactions in the September 2015 briefing prompted by the spreadsheet prepared by Mr. Barber and Mr. Ackles, and it is clear from Ms. Wenezenki-Yolland's evidence that, in the October 13 briefing, both Mr. Mazure and Ms. Wenezenki-Yolland *did* voice their disagreements with BCLC. I do not accept that Mr. Mazure was restricted from seeking a direction from the minister or the minister's consent to issue a direction himself. Further support for the conclusion that Mr. Mazure was able to seek a direction from the minister at or before this briefing is found in the evidence that he, in fact, *did* attempt to seek such a direction in the months that followed (but was told that he could not do so because of the upcoming provincial election).

Further, it is clear in my view that Mr. Mazure had particular reason to raise the prospect of a ministerial directive at the October 13 briefing, which focused on the Meyers Norris Penney report. As discussed at length in Chapter 11, this report contained the following recommendation:[452]

> GPEB, at the direction of the Minister responsible for gaming, should consider issuing a directive pertaining to the rejection of funds where the source of cash cannot be determined or verified at specific thresholds. This would then provide specific guidance for BCLC to create policies and procedures for compliance by all operators.

448 Ibid, para 187.

449 Ibid, para 190.

450 Exhibit 922, Wenezenki-Yolland #1, paras 191–92.

451 Evidence of J. Mazure, Transcript, February 5, 2021, p 142.

452 Exhibit 73 OR: Gaming Reports and Recommendations, Appendix J, para 5.52.

For the reasons set out in Chapter 11, I reject the contention that this recommendation was misdirected at GPEB and that it should have instead been directed at BCLC. While I accept that BCLC could have – and, in my view, should have – implemented a measure of this sort far earlier than it did, the recommendation clearly anticipates a direction from GPEB with the consent of the responsible minister, which was entirely consistent with the *Gaming Control Act* at that time. Given Mr. Mazure's reservations about the efforts of BCLC, I cannot understand why, armed with this recommendation, he did not leap at the opportunity to seek a direction empowering GPEB to impose upon the industry precisely the sort of measure Mr. Mazure had been urging BCLC to implement for nearly a year and which would eventually resolve the industry's problems with suspicious cash 18 months later when implemented in response to a recommendation from Dr. German.

Following the 2017 election, Mr. Mazure again raised his concerns to the ministerial level in GPEB's initial briefing with Mr. Eby[453] but again failed to seek a directive from the minister. As they had done in 2015 with Mr. de Jong, Mr. Mazure and Mr. Meilleur successfully impressed upon Mr. Eby their ongoing concerns about suspicious cash in the gaming industry and ultimately inspired him to take action, this time in the form of Dr. German's review.[454] As noted previously, this briefing was incomplete, failing to properly represent the actions taken by BCLC in the preceding years,[455] but it seems clear that these failings did not interfere with GPEB's ability to convey to the new minister the urgency of the situation facing the industry.

Where this briefing was lacking in a material way was in the inexplicable decision not to present to Mr. Eby the direction that Mr. Mazure had intended to seek from Mr. de Jong prior to the election.[456] While Mr. Mazure could not recall whether or not he sought this direction from Mr. Eby,[457] I am satisfied, based on Mr. Eby's evidence, Mr. Fyfe's evidence, and the absence of any evidence suggesting a briefing note recommending the direction was put before the new minister, that he did not.[458] This represents a further missed opportunity on the part of Mr. Mazure to seek much-needed ministerial intervention into an issue that, by that time, was abundantly clear GPEB and BCLC were unable to resolve themselves. While it is uncertain that Mr. Eby would have issued this direction if sought by GPEB, given the gravity of GPEB's continued concern about the issue, it was, in my view, incumbent upon the Branch to ensure that Mr. Eby at least had the opportunity to do so.

Deployment of GPEB's Investigators

In considering the extent of GPEB's contribution to the growth and perpetuation of money laundering in the gaming industry prior to 2018, it is necessary to comment briefly on the deployment of GPEB's casino investigators. This issue attracted

453 Evidence of D. Eby, Transcript, April 26, 2021, pp 34–35.

454 Ibid, pp 65–66; Evidence of R. Fyfe, Transcript, April 29, 2021, pp 26–27, 99–100.

455 Evidence of D. Eby, Transcript, April 26, 2021, pp 149–59.

456 Ibid, pp 54–55; Evidence of R. Fyfe, Transcript, April 29, 2021, p 14.

457 Evidence of J. Mazure, Transcript, February 5, 2021, pp 145–47.

458 Evidence of D. Eby, Transcript, April 26, 2021, pp 54–55; Evidence of R. Fyfe, Transcript, April 29, 2021, p 14.

significant attention during the Commission's hearings. Various current and former GPEB staff members were questioned as to what GPEB investigators were doing themselves to respond to suspicious cash transactions and, in particular, why investigators were not present in casinos and interviewing patrons as to the source of the substantial volumes of suspicious cash with which they were gambling.

Prior to recent changes to the deployment of GPEB investigators referred to below and discussed in detail in Chapter 12, the role of GPEB's casino investigators with respect to suspicious transactions was largely limited to preparing reports about those transactions based on second-hand information supplied by service providers, BCLC, and, in some instances, law enforcement databases.[459] These reports were not without value. They were used in the efforts made by the investigation division to persuade BCLC and the Branch's general managers to take action in response to this activity, and they were provided to law enforcement, including during the probe into suspicious transactions commenced by the IPOC unit in 2010.[460] It appears, however, that these efforts closely mirrored those of BCLC investigators[461] and do not seem to have been a particularly effective use of the time and skills of the GPEB investigators, many of whom had significant law enforcement experience.[462]

These past functions can be contrasted with the current role of investigators in the GPEB enforcement division. As discussed in Chapter 12, GPEB investigators now maintain a regular physical presence in the province's casinos during peak hours,[463] rather than attending occasionally during standard business hours only to collect materials and speak with staff, as was the case previously. While present in casinos, investigators are now empowered to intervene directly in suspicious transactions by interviewing patrons[464] and, where justified, seizing suspicious cash while waiting for police attendance and directing service provider staff to refuse transactions.[465] It is important to acknowledge, however, that this expanded role for investigators has been

459 Evidence of R. Barber, Transcript, November 3, 2020, pp 15–18; Evidence of K. Ackles, Transcript, November 2, 2020, pp 12–18; Exhibit 144, Ackles #3, paras 8–17; Exhibit 145, Barber #1, paras 13–19; Evidence of D. Dickson, Transcript, January 22, 2021, pp 7–8.

460 Evidence of R. Barber, Transcript, November 3, 2020, pp 40–41; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 53–54, 67, 158–60; Evidence of D. Scott, Transcript, February 8, 2021, pp 17–18, 25; Evidence of J. Mazure, Transcript, February 5, 2021, p 82; Exhibit 181, Vander Graaf #1, para 41 and exhibits G–Q; Evidence of D. Dickson, Transcript, January 22, 2021, pp 79–82; Evidence of J. Schalk, Transcript, January 22, 2021, pp 140; Exhibit 557, Scott #1, paras 34–37; Exhibit 541, Mazure #1, para 31.

461 Evidence of R. Barber, Transcript, November 3, 2020, pp 16–17; Evidence of K. Ackles, Transcript, November 2, 2020, pp 12–18; Exhibit 78, Beeksma #1, paras 38, 51; Exhibit 148, Tottenham #1, paras 8, 9 and exhibit 87; Exhibit 87, S. Lee #1, paras 26–27; Exhibit 166, Hiller #1, paras 11–20; Evidence of S. Beeksma, Transcript, October 26, 2020, pp 35–37; Evidence of M. Hiller, Transcript, November 9, 2020, pp 5–6; Evidence of D. Tottenham, Transcript, November 4, 2020, pp 44–45.

462 Evidence of D. Dickson, Transcript, January 22, 2021, p 2; Exhibit 144, Ackles #3, paras 4–7; Exhibit 145, Barber #1, paras 5–8; Evidence of T. Robertson, Transcript, November 6, 2020, p 29.

463 Evidence of S. MacLeod, Transcript, April 19, 2021, pp 43–45.

464 Evidence of C. Skrine, Transcript, January 27, 2021, pp 16, 55, 127–28; Evidence of S. MacLeod, Transcript, April 19, 2021, p 45.

465 Evidence of C. Skrine, Transcript, January 27, 2021, pp 23–24, 26–27, 56, 125–26, 131–33; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 46–47.

implemented in a context that differs in some ways from that which existed in the past. Presently, there is a relatively harmonious relationship between relevant units within GPEB and BCLC;[466] the BC Lottery Corporation seems to have a genuine commitment to addressing suspicious transactions; the Branch's general manager is supportive of an expanded role for investigators;[467] and there is an engaged law enforcement unit in the form of the JIGIT that can be counted on to respond to suspicious activity in casinos when law enforcement involvement is needed.

I am encouraged that GPEB appears to have found ways to make better use of its investigative resources than it did in the past. The contrast between the current deployment of GPEB investigators and their past role gives rise to the questions of why these investigators were not more effectively deployed previously and, if they had been, whether doing so could have enhanced GPEB's response to the money laundering that was prevalent in the province's casinos for at least a decade. The different context referred to above is a partial answer to the first of these questions. GPEB investigators, for example, could not have seized suspicious cash while waiting for police attendance without the existence of an engaged law enforcement unit that could be counted on to attend urgently. Less clear, however, is why GPEB investigators could not previously have at least taken the step of approaching patrons engaged in suspicious cash transactions, asking them questions about the source of their funds and warning them that the funds they were receiving were likely illicit in origin. Based on the record before me, it appears there are two reasons why the role of GPEB investigators in responding to suspicious transactions was previously limited in the way that it was: perceived limits on the authority of GPEB investigators and concerns for investigator safety. As I discuss below, I am skeptical that either was truly a barrier to more direct intervention by GPEB investigators in suspicious transactions.

There is evidence before me that perceived limits on the legal authority of GPEB investigators prevented Mr. Vander Graaf and subsequently Mr. Meilleur from instructing the investigators under their direction to interview casino patrons about the source of their funds. During his tenure as executive director of the GPEB compliance division, Mr. Meilleur received legal advice that he understood to preclude GPEB investigators from conducting such interviews.[468] Similarly, Mr. Scott testified that when he raised the prospect of GPEB investigators conducting such interviews with Mr. Vander Graaf, he was told that investigators lacked the authority to conduct such interviews.[469] While I do not question the sincerity of these beliefs, there is, in my view, reason to question whether they were objectively accurate. Some of the legal advice

466 Exhibit 485, deBruyckere #1, para 19; Evidence of K. deBruyckere, Transcript, January 21, 2021, p 98; Evidence of B. Desmarais, Transcript, February 1, 2021, pp 157–58; Evidence of C. Skrine, Transcript, January 27, 2021, pp 35–36, 48, 58–59; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 91, 113–15.

467 Evidence of S. MacLeod, Transcript, April 19, 2021, pp 91–92; Evidence of C. Skrine, Transcript, January 27, 2021, pp 28–29.

468 Exhibit 586, Dr. Peter German, Compliance Under the Gaming Control Act – An Opinion Prepared for BC GPEB and BCLC (December 4, 2016); Exhibit 587, Meilleur #1, paras 67–73; Exhibit 1058, Affidavit #3 of Joseph Emile Leonard Meilleur, made on September 17, 2021, exhibits A, B; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 39–40.

469 Evidence of D. Scott, Transcript, February 8, 2021, p 34.

relied on by Mr. Meilleur is in evidence before me in the form of written legal opinions. These opinions do not refer specifically to patron interviews, but rather indicate that GPEB investigators could not *enforce* legislation outside of the *Gaming Control Act*, such as the *Criminal Code* of Canada, or identify limits on the authority of GPEB investigators to conduct investigations under the *Criminal Code* or exercise *Criminal Code* investigative powers.[470] While I understand that these opinions do not represent the entirety of relevant legal advice received by GPEB[471] it seems that there is a significant difference between the enforcement of the *Criminal Code* or exercise of investigative powers under the *Code* and asking casino patrons where they obtained their money. I note as well that Dr. German, the author of one of the opinions in evidence, agreed in his testimony that GPEB investigators *could* have questioned patrons about their source of funds.[472] Perhaps most significantly, GPEB investigators have now begun conducting interviews of precisely this sort despite the absence of any relevant legislative changes.

There is also, in my view, reason to question the objective validity of the safety concerns cited as a second reason why GPEB investigators could not interview casino patrons. These are described in detail in Chapter 10. While, again, I do not doubt the sincerity of these concerns, I am skeptical of their legitimacy. There may have been isolated incidents in which genuinely dangerous individuals brought suspicious cash into casinos and it would not have been safe to approach them. The prevailing theory of the money laundering typology at issue, however, was that the patrons buying-in with this suspicious cash were not themselves responsible for the criminal activity from which it was derived, but rather that the patrons obtained their funds directly or indirectly from those who were, perhaps, in some cases, without realizing that the funds had criminal origins.[473] That these patrons, in the secure environment of a casino, posed such a threat to GPEB investigators that it was unsafe to even speak with them seems implausible. Further undermining the legitimacy of this concern is evidence that interviews of patrons have and continue to be conducted, seemingly without incident. BCLC began routinely interviewing patrons as part of its cash conditions program in 2015, and GPEB itself has now decided that its investigators can begin conducting patron interviews. In light of this evidence, it is difficult to accept that GPEB investigators could not have done the same in previous time periods.

I cannot say with certainty how these actions might have affected the trajectory of the money laundering crisis that emerged in the gaming industry. While, in my view, additional information was not necessary to understand the urgency of the situation facing the industry, it is possible that further information gleaned through such interviews would have persuaded GPEB's general managers, BCLC, government, or law enforcement

470 Exhibit 586, Dr. Peter German, Compliance Under the Gaming Control Act – An Opinion Prepared for BC GPEB and BCLC (December 4, 2016); Exhibit 587, Meilleur #1, paras 66–67; Exhibit 1058, Affidavit #3 of Joseph Emile Leonard Meilleur, made on September 17, 2021, exhibits A, B; Evidence of L. Meilleur, Transcript, February 12, 2021, pp 39–40.

471 Evidence of L. Meilleur, Transcript, March 10, 2021, p 100.

472 Evidence of P. German, Transcript, April 12, 2021, p 121.

473 Exhibit 112, Schalk Letter February 2011.

to take more aggressive action to combat money laundering. These interviews could also have offered an opportunity for direct intervention by GPEB investigators with patrons engaged in cash transactions, allowing them to warn patrons about the likely sources of the cash they were using to gamble and the risks associated with those sources. GPEB investigators issuing such warnings and asking patrons questions about the source of the cash they were using to buy-in may well have served to deter this conduct. While it is not possible to determine whether these benefits would have materialized had GPEB investigators been directed to interview patrons, the possibility that they could have suggests that the failure to do so represents a missed opportunity.

Contribution of GPEB's Actions Following the Delivery of Dr. German's First Interim Recommendations

As was the case with BCLC, it is necessary to consider separately the extent to which GPEB's actions contributed to money laundering in the gaming industry during a third time period, beginning at or around the time of the delivery of Dr. German's first interim recommendations in late 2017. It is at this point that GPEB's actions finally begin to resemble a response commensurate with the nature and scale of suspicious activity in the industry at that time.

The shift that occurred at this time within the two organizations is distinct, however, in that, except for the contribution it made to motivating Mr. Eby to initiate Dr. German's review,[474] GPEB's actions did not play a significant role in finally resolving the money laundering that had afflicted the industry for so many years. This was primarily the result of the actions of BCLC, prompted largely by Dr. German's recommendations and the urging of the minister responsible for gaming. However, the positive shift in GPEB's approach has contributed, in my view, to safeguarding the industry from the risk of future money laundering.

As discussed in Chapter 12, since the issuance of Dr. German's first interim recommendations, GPEB has implemented important changes, including the creation of a new enforcement division,[475] the establishment of new mechanisms for working collaboratively with BCLC and law enforcement,[476] and crucially, the reimagined role for GPEB investigators referred to above.

These measures were not implemented in time to contribute to the significant progress made in the elimination of suspicious cash in the industry through the measures implemented by BCLC in response to Dr. German's recommendation. However, these changes, alongside a legislative change eliminating the requirement for

474 Evidence of D. Eby, Transcript, April 26, 2021, pp 65–66.

475 Exhibit 504, Affidavit #1 of Cary Skrine, made on January 15, 2021, para 18; Evidence of S. MacLeod, Transcript, April 19, 2021, pp 40–42.

476 Exhibit 504, Affidavit #1 of Cary Skrine, made on January 15, 2021, paras 57–79; Evidence of C. Skrine, Transcript, January 27, 2021, pp 75–77; Exhibit 144, Ackles #3, paras 46–49.

ministerial approval of directives to BCLC from the general manager,[477] will significantly enhance GPEB's capacity to contribute to the prevention of money laundering in the future. Accordingly, I view them as important steps forward for the industry's efforts to prevent money laundering and commend GPEB for taking them.

Conclusion

Despite the repeated and forceful warnings issued by the investigation division, GPEB's general managers failed to act on this advice and, for several years, failed to take any meaningful action to address it, largely limiting GPEB's efforts to collaborating with BCLC in the development of voluntary cash alternatives. Once the industry reached the height of the money laundering crisis in 2015, Mr. Mazure seemed to have finally understood the urgency of the situation and took more meaningful action in response. While this action led to some positive results, GPEB failed to do all that it could to address the problem including, crucially, failing to seek further intervention from the minister. In recent years, however, as BCLC was taking action to finally resolve the crisis, GPEB likewise took steps that I believe will significantly enhance its ability to respond to the risk of money laundering in the future and help protect the industry and the people of British Columbia from this form of criminality going forward.

While their failings may have followed a similar trajectory, the underlying factors that contributed to BCLC's inaction do not seem to apply to GPEB. The Branch is not subject to revenue motivations; it did not seem hostile to external viewpoints; and while it had some level of commitment to risk-based approaches,[478] it does not appear that it maintained an undue faith in national and international standards and expert guidance. Rather, it seems that GPEB's contribution to the development of the money laundering crisis that afflicted the province's gaming industry was the result, in part, of a lack of certainty about and confidence in its role in the industry. At various times, and despite some level of recognition of the magnitude of the crisis facing the gaming industry, GPEB seemed to maintain a fixation on working collaboratively with BCLC to resolve issues by consensus and co-operation. During Mr. Scott's tenure, for example, he urged BCLC to take action to verify the source of funds used in suspicious transactions, but when BCLC refused to do so, he seemed willing to live with that refusal until phase three of the anti–money laundering strategy was implemented.[479] Similarly, despite agreeing on some level with the views of Mr. Vander Graaf and Mr. Schalk, Mr. Scott directed them to stop corresponding directly with BCLC and apologized to Mr. Graydon for that correspondence,[480] seemingly motivated by a desire to preserve a harmonious relationship between the two organizations. Likewise, Mr. Mazure indicated that he

477 *Gaming Control Act*, s 28; Exhibit 541, Mazure #1, para 224; Evidence of S. MacLeod, Transcript, April 19, 2021, p 20.

478 Evidence of J. Mazure, Transcript, February 5, 2021, p 233; Exhibit 541, Mazure #1, paras 175–80.

479 Evidence of D. Scott, Transcript, February 8, 2021, pp 53–56.

480 Ibid, pp 95–96; Exhibit 557, Scott #1, paras 68–70 and exhibit 32.

had been directed to "work together" with BCLC to resolve issues[481] and, in the face of resistance to his efforts to convince Mr. Lightbody to take additional action, continued with an obviously hopeless campaign of persuasion for over a year[482] rather than seeking the minister's intervention to force BCLC into action.

In an ideal world, GPEB – or its successor organization – and BCLC would work in harmony on appropriate and mutually agreed-upon efforts to prevent money laundering in the gaming industry. Where this is not possible, however, ensuring harmony between the two organizations should never be prioritized over ridding the industry of illicit cash or otherwise responding decisively to money laundering or other serious criminal activity in the gaming industry. GPEB, or divisions within GPEB, repeatedly identified as necessary the kinds of measures that would likely have eliminated widespread money laundering in the gaming industry, long before Dr. German's review. And yet, when BCLC did not agree to implement them, GPEB seemed to accept this refusal out of fear that pressing the issue or seeking to force BCLC's hand would damage the relationship between the two organizations.

This experience suggests that it is necessary for there to be a clear hierarchy within the industry. In my view, it is essential that the regulator be positioned at the top of that hierarchy. This does not mean that GPEB should abandon efforts to work collaboratively with BCLC, but where there are intractable differences, it must be the Branch – with its statutory mandate to safeguard the integrity of gaming[483] – that has final say. I am hopeful that GPEB's new authority, established through legislative amendments in 2018, to issue directions to BCLC without ministerial consent[484] assists in establishing this clear hierarchy and that this needed structure for the industry will be reflected in the creation of the new, independent regulator, which I understand to be underway.[485] In order to preserve the advancements already made in establishing a clear hierarchy in the industry, I recommend that the new Independent Gaming Control Office maintain the authority to issue directives to BCLC without the consent of the minister or any other external authority.

Recommendation 7: I recommend that the Province ensure that the Independent Gaming Control Office, once established, maintain the authority to issue directives to the British Columbia Lottery Corporation without the consent of the Minister Responsible for Gaming or any other external authority.

481 Evidence of J. Mazure, Transcript, February 5, 2021, pp 25–28.

482 Exhibit 505, Lightbody #1, exhibits 48, 54, 55, 57.

483 *Gaming Control Act*, s 23.

484 *Gaming Control Act*, s 28(3); Exhibit 541, Mazure #1, para 224; Evidence of S. MacLeod, Transcript, April 19, 2021, p 20.

485 Evidence of S. MacLeod, Transcript, April 19, 2021, pp 68–73; Exhibit 875, Ministry of Attorney General & GPEB Briefing Note re Options for New Regulator Structure in Response to Dr. German's Recommendations (December 5, 2018).

Actions and Omissions of Elected Officials

As discussed in Chapter 9, Mr. Coleman was the minister responsible for gaming when the *Gaming Control Act* was enacted in 2002 and British Columbia's gaming industry began to assume its modern form. In remarks made in the Legislature at that time, and reiterated in his evidence before the Commission, Mr. Coleman explained that one of the objectives motivating the reform of the industry at that time was to remove the influence of members of the provincial cabinet from British Columbia's gaming industry.[486] While I have no reason to doubt Mr. Coleman's sincerity in this regard, it is clear from the evidence before me that the *Gaming Control Act* failed to achieve this objective.

To the contrary, elected officials – in particular the minister responsible for gaming – have held significant authority over the industry since 2002. While individual responsible ministers have not always actively exercised this authority, until 2018, the structure of the Act placed them in a critical position in which they were effectively the *only* external authority to which either BCLC or GPEB were answerable. Rather than take influence over the industry out of the hands of elected officials, the Act gave the responsible minister the authority to issue directives to both organizations[487] at the same time that, at least until 2018,[488] it denied either the authority to direct the other. In doing so, it not only granted the responsible minister the authority to direct both organizations but also placed the minister in the position of being the only authority that could resolve intractable conflicts between the two organizations.

Given this legislative structure, it is clear to me that even though the minister responsible for gaming – and by extension, government – does not have day-to-day involvement in the operation, conduct, management, or regulation of gaming in British Columbia, the minister continues to occupy a critical role in the gaming industry. As such, it is necessary to examine whether and to what extent the actions of elected officials within the provincial government contributed to the growth and perpetuation of money laundering in the industry.

It is essential, in my view, that "government" not be treated as a singular entity and that the actions of individual elected officials be considered on their own merits. This is so for two reasons. First, it does not seem as though the topics of money laundering, illicit funds, and suspicious transactions in the gaming industry were matters of significant discussion within cabinet or government caucus during the time period that I have found money laundering was occurring in the gaming industry. Accordingly, it would not be fair to paint the entirety of any cabinet or all members of the Legislative Assembly (MLAs) with a single brush in this regard. It seems likely that individual cabinet ministers and MLAs whose work did not lead them to have direct involvement with the gaming industry may well have had little reason to be aware of suspicious activity in casinos or the actions of government in response to these issues. As such, the focus ought to remain on the actions of those individuals that did have direct involvement with the gaming industry.

486 Exhibit 70, OR: Hansard, pp 3–6; Evidence of R. Coleman, Transcript, April 28, 2021, pp 24–27.

487 *Gaming Control Act*, ss 6, 26.

488 Ibid, s 28(3); Exhibit 541, Mazure #1, para 224; Evidence of S. MacLeod, Transcript, April 19, 2021, p 20.

Second, it is clear that even those individuals in relevant cabinet positions operated in significantly different contexts from one another. The circumstances within the industry and the information available to different individuals in cabinet varied over time. It is essential that the actions of those with relevant responsibilities be considered based on the circumstances that they faced and the information to which they had access, and not with the benefit of hindsight available to their successors or to this Commission. For these reasons, the analysis that follows will focus separately on the actions and omissions of four former ministers responsible for gaming – Mr. Coleman, Ms. Bond, Mr. de Jong, and Mr. Eby – and one former premier, Ms. Clark.

Despite the conclusion that it is necessary to consider the actions of individual elected officials independently, there is one matter that, in my view, is best addressed collectively and at the outset of this discussion. The Commission's Terms of Reference require that I consider whether actions that contributed to money laundering in this province amounted to corruption.[489] The Commission inquired thoroughly into the activities of government officials with authority and responsibility over the gaming industry during the relevant time. During the Commission's hearings, I did not hear any evidence that is capable of supporting a conclusion that any of the individuals discussed below – or any other government official – engaged in any form of corruption related to the gaming industry or, indeed, the Commission's mandate more generally. This finding should be understood to mean that, in my view, none of these individuals knowingly encouraged, facilitated, or permitted money laundering to occur in order to obtain personal benefit or advantage, be it financial, political, or otherwise.

I pause to emphasize this finding. Given my mandate, I looked for corruption in government, and specifically in relation to gaming. It is not possible to definitively conclude that any government is completely free of corruption. What I can say is that, after a thorough inquiry, *I found no evidence of corruption*. I think that residents of British Columbia should take comfort from the fact that, whatever political theories or accusations may be advanced, my examination of the evidence did not reveal corruption of any sort. To the extent there were failures or missed opportunities to prevent or respond to money laundering, my conclusion is that they were not motivated by any corrupt purpose.

This does not mean, of course, that there were no failings or shortcomings in the actions taken or decisions made by these elected officials. As I will discuss below, there were actions available to several that were not taken that could have furthered efforts to combat money laundering in the gaming industry.

Mr. Coleman

Mr. Coleman served as an MLA for nearly 25 years, from 1996 until 2020.[490] During his time in elected office, Mr. Coleman held a number of cabinet posts, including minister

489 Commission of Inquiry into Money Laundering in British Columbia Terms of Reference, para 4(1)(b).

490 Evidence of R. Coleman, Transcript, April 28, 2021, pp 2, 4.

of housing and social development,[491] minister of forests and range,[492] minister of energy and mines,[493] deputy premier,[494] and on multiple occasions, minister of public safety and solicitor general.[495] Alongside these portfolios, Mr. Coleman also served on three separate occasions as the minister responsible for gaming, the first from 2001–2005,[496] the second from 2008–2011[497] (during the first part of which he was responsible only for the "policy" aspects of the portfolio, as distinct from the "enforcement" aspects[498]), and the third from 2012–2013.[499] Given the manner in which the gaming industry changed over the course of these time periods, it is necessary, in my view, to consider Mr. Coleman's tenure as minister responsible for gaming in two distinct blocks of time. The first of these includes his initial term from 2001–2005 and the second encompasses his second and third tenures from 2008–2013, recognizing that Mr. Coleman was not responsible for the industry for approximately one year during this second time span and that the scope of his authority during this period was initially limited to the policy aspects of the portfolio.

2001–2005

As discussed in Chapter 9, the first period in which Mr. Coleman served as minister responsible for gaming was a significant one for the industry. Following the 2001 election, the new government recognized that there was a need to modernize gaming in the province.[500] In response, the government, under Mr. Coleman's leadership, developed and enacted the *Gaming Control Act*. Based on the evidence before me as to the operation of the industry before this time, I agree with the assessment of the government of the day that the province's regulatory structure for gaming required an overhaul, and I accept that the new legislation streamlined and modernized the industry.

As discussed earlier in this chapter, however, the regulatory structure put in place in 2002 did, in my view, contribute to the growth and development of money laundering in the industry beginning later that decade. In particular, the Act failed to provide for any meaningful regulatory oversight of BCLC and, contrary to Mr. Coleman's intentions,[501] established a central role for the responsible minister by ensuring that it was only the minister who could issue directions to either BCLC or GPEB.

While in hindsight this suggests that the regulatory structure of the industry embodied in the legislation spearheaded by Mr. Coleman contributed to the eventual growth of money laundering in the industry, it is not, in my view, reasonable to suggest that

491 Ibid, pp 5, 56, 95.
492 Ibid, pp 5, 55–56.
493 Ibid, pp 5–6, 126–27.
494 Ibid, p 6.
495 Ibid, pp 3–6, 8, 12.
496 Ibid pp 11–12, 21.
497 Ibid, pp 11–12, 95.
498 Ibid, pp 12–13.
499 Ibid, pp 11–12, 124.
500 Exhibit 70, OR: Hansard, pp 3–6; Evidence of R. Coleman, Transcript, April 28, 2021, pp 23–26.
501 Exhibit 70, OR: Hansard, pp 3–6; Evidence of R. Coleman, Transcript, April 28, 2021, pp 24–26.

Mr. Coleman is, on this basis, somehow responsible for the crisis that eventually emerged in the industry. This is so for several reasons. First, it is clear from Mr. Coleman's description of the process of developing the new *Gaming Control Act* that he was not directly responsible for developing the details of this regulatory structure, and that this task was appropriately assigned to professional public servants.[502] Second, there is no evidence that the shortcomings in this legislation were recognized at the time the legislation was enacted or that would support a conclusion that the problems that arose in time were predictable. There was no reason, for example, at the time the legislation was enacted, to suspect that BCLC would eventually require a level of regulatory oversight not provided for in the Act, and there is no basis, in my view, to suggest that Mr. Coleman should have anticipated that this would eventually come to pass. Finally, and most significantly, regardless of who was responsible for conceiving of, drafting, or tabling the legislation, it was ultimately passed by the Legislative Assembly as a whole, the intentions of which cannot fairly be attributed to a single member.

It is important to note here as well that Mr. Coleman's initial tenure as minister responsible for gaming concluded several years prior to the beginning of the period of time in which I have found that money laundering took place in the province's casinos. Mr. Coleman gave evidence that, while he was advised of issues at casinos related to thefts and loan sharking,[503] neither money laundering nor the acceptance of the proceeds of crime were ever raised to him as matters of concern during this period.[504] This is unsurprising, as the rapid growth of suspicious transactions did not commence until several years later.

Accordingly, I have little difficulty concluding that Mr. Coleman's actions during this period did not significantly contribute to the growth and perpetuation of money laundering in the province's casinos. Mr. Coleman did not act to curb large or suspicious transactions during this period because they simply were not an issue for the industry at the time. While certain features of the *Gaming Control Act* enacted under his leadership would play a role in the development of this crisis years later, there is no evidence that there was any basis at the time to foresee that this would be the case, let alone that any such concerns were brought to the attention of Mr. Coleman.

2008–2013

Mr. Coleman resumed responsibility for gaming in 2008 at another critical time for the industry. Whereas his previous tenure in this role had ended years before initial concerns about suspicious transactions arose, his return coincided with the earliest concerns from the GPEB investigation division about the beginnings of what would become a money laundering crisis in the years ahead.[505] By the time Mr. Coleman was relieved of responsibility for the industry for the final time in 2013, the rate at

502 Evidence of R. Coleman, Transcript, April 28, 2021, pp 27–29.

503 Ibid, p 31.

504 Ibid, pp 31, 44–45.

505 Exhibit 181, Vander Graaf #1, para 35–38 and exhibit G; Evidence of J. Schalk, Transcript, January 22, 2021, p 109; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 48, 51–52,165–66; Evidence of L. Vander Graaf, Transcript, November 13, 2020, p 39.

which suspicious cash was being accepted in the province's casinos had accelerated to significant levels. According to a GPEB investigation division report of findings from October 2014, the Branch received 1,059 section 86 reports of suspicious cash transactions in 2012–13, with a total value of $82,369,077.[506]

Given the authority of the responsible minister to direct both BCLC and GPEB, Mr. Coleman's return to the gaming portfolio in 2008 positioned him to respond to this burgeoning crisis from its earliest stages. Mr. Coleman had the authority to issue directions imposing limits on cash transactions, requiring proof of the source of funds used in suspicious transactions or to undertake any number of other measures that would have stemmed the flow of illicit cash into the province's casinos just as the rate of suspicious transactions was beginning to rise.

Mr. Coleman's legal authority to take this action, however, is not the equivalent of a genuine opportunity to do so. Based on the evidence before me, it is not at all clear that Mr. Coleman had the information required to recognize that there was a need for action until the very end of his second tenure as minister responsible for gaming in 2010. Prior to this time, there is simply no evidence that information about growing suspicious transactions or the emerging concerns of the GPEB investigation division were making their way to Mr. Coleman. While the concerns of the investigation division ultimately proved well founded, the rates of suspicious cash transactions at this time remained a fraction of what they would become by 2012–13. According to an October 2013 investigation division report of findings, the Branch received only 103 section 86 reports related to suspicious cash transactions in 2008–09 and only 117 such reports in 2009–10,[507] barely 10 percent of what they would become in the year that Mr. Coleman left the portfolio for the final time in 2013.

Despite the comparatively low volume of suspicious transactions, it is clear that, by December 2010, Mr. Coleman had some notice of the crisis developing in the industry for which he was responsible. As detailed in Chapter 10, Mr. Coleman met with Mr. Vander Graaf directly that month.[508] While there is some uncertainty as to the details of that conversation,[509] I accept that Mr. Vander Graaf raised with Mr. Coleman his concerns about suspicious transactions in the province's casinos. Given the evidence before the Commission of Mr. Vander Graaf's focus on this issue, it is difficult to imagine that he could have met with a sitting minister, or anyone else in a position of authority in the gaming industry, without doing so.

In addition to his conversation with Mr. Vander Graaf, Mr. Coleman was interviewed in January 2011 about media coverage of suspicious transactions in the province's

506 Exhibit 181, Vander Graaf #1, exhibit Q.

507 Ibid, exhibit O.

508 Ibid, paras 132–35; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 104–7, Evidence of R. Coleman, Transcript, April 28, 2021, pp 110–15; Evidence of L. Wanamaker, Transcript, April 22, 2021, pp 6–8.

509 Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 104–7, Evidence of R. Coleman, Transcript, April 28, 2021, pp 110–15; Evidence of L. Wanamaker, Transcript, April 22, 2021, pp 6–8 and 28; Exhibit 181, Vander Graaf #1, paras 132–35.

casinos,[510] establishing that he was aware of this coverage. Of particular note, Mr. Coleman was asked in a CBC interview about the following comments made by Barry Baxter, then an Inspector with the RCMP IPOC unit:[511]

> "Police became aware of the activities after the fact," said Inspector Baxter with the RCMP's Integrated Proceeds of Crime section. "We were suspicious that it's dirty money," Baxter told CBC. "The common person would say this stinks. There's no doubt about it." The casino industry in general was targeted during this time period for what may well be some very sophisticated money laundering activities by organized crime.

Accordingly, it is clear that by the end of his second stint as minister responsible for gaming, Mr. Coleman had received – or was at least aware of – the concerns of both the executive director of the GPEB investigation division and a senior officer with the RCMP IPOC unit that British Columbia casinos were accepting proceeds of crime.

At the same time, however, Mr. Coleman was also receiving information and advice from BCLC. Based on Mr. Coleman's evidence, the message he was receiving from this source was that BCLC had industry-leading anti–money laundering strategies in place and that the players responsible for the large cash buy-ins of concern to Mr. Vander Graaf and Mr. Baxter had been "checked out."[512]

Accordingly, just as Mr. Coleman was receiving warnings of serious criminal activity in an industry for which he was responsible, the Crown corporation charged with the "conduct and management" of that industry was delivering the message that there was nothing to be concerned about. Mr. Coleman responded by seeking out independent expert advice to assist him in understanding what was occurring in the industry and how to move forward. He did this by engaging Mr. Kroeker to conduct a review of anti–money laundering measures in the gaming industry.[513]

I can appreciate that there may be a temptation to suggest that Mr. Coleman should have simply acted on the information provided by Mr. Vander Graaf and Mr. Baxter, and that the time spent waiting for Mr. Kroeker to complete his review was additional time that illicit funds were flowing into the province's casinos. While I understand this perspective, in my view, Mr. Coleman's decision to seek out independent advice was prudent and appropriate. Given the comparatively low volume of suspicious transactions at the time, the conflicting advice that he was receiving, and the absence of evidence that Mr. Coleman had received any comprehensive or actionable policy recommendations alongside the warnings from Mr. Vander Graaf or Mr. Baxter, it was

510 Exhibit 1024, CBC Interview with Rich Coleman (January 10, 2011); Evidence of R. Coleman, Transcript, April 28, 2021, pp 136–37; Evidence of R. Coleman, Transcript, May 14, 2021, pp 11–16.

511 Evidence of R. Coleman, Transcript, April 28, 2021, pp 132–33; Exhibit 1024, CBC Interview with Rich Coleman (January 10, 2011), p 7.

512 Evidence of R. Coleman, Transcript, April 28, 2021, pp 60–70, 137, 152–55; Exhibit 934, BCLC Minutes from the Board Meeting (July 23, 2010); Exhibit 935, BCLC Board Meeting July 23, 2010, Presentation regarding AML and FINTRAC.

513 Evidence of R. Coleman, Transcript, April 28, 2021, pp 114–15.

wise, in my view, for Mr. Coleman to take the time to try to understand the issue he was facing and identify the proper response before acting.

It is necessary to comment briefly here on the distinction between Mr. Coleman's private response to these warnings, described above, and his public response to Mr. Baxter's comments. Whereas Mr. Coleman's private reaction to the concerns expressed by Mr. Vander Graaf and by Mr. Baxter was measured and appropriate, the same cannot be said of his public reaction. Mr. Coleman's decision to engage Mr. Kroeker suggests that he was, at least, open to these concerns and genuinely interested in determining whether there was a real problem developing in the gaming industry. As discussed in Chapter 10, however, comments made by Mr. Coleman in the media at this time seem focused instead on quashing any public discussion of these issues and maintaining public confidence in the gaming industry, whether or not it was deserving of such confidence.

Responsibility for the gaming industry was transferred from Mr. Coleman to Ms. Bond around the time that Mr. Kroeker's review was completed.[514] Accordingly, Mr. Coleman had no role in determining whether and how Mr. Kroeker's recommendations would initially be implemented. By the time Mr. Coleman returned to the gaming portfolio in 2012, Ms. Bond, acting on the advice of the public service, had already decided that nine of Mr. Kroeker's 10 recommendations should be implemented immediately, while the final recommendation, which called for the creation of a "cross-agency task force to investigate and gather intelligence on suspicious activities and transactions at BC gaming facilities" would be delayed until the impact of the first nine recommendations were known.[515]

When Mr. Coleman returned to the gaming portfolio, he again received assurances that the anti–money laundering regime in place in British Columbia's gaming industry was highly effective and "among the most stringent of any jurisdiction in Canada."[516] This advice would have been bolstered by Mr. Kroeker's review, which concluded that BCLC had a robust anti–money laundering regime in place and that GPEB was capable of providing effective oversight of anti–money laundering and related criminal activity.[517] While Mr. Kroeker's report made recommendations for improving the industry's response to the risk of money laundering, it hardly raised the alarm about the illicit funds becoming increasingly prevalent in the province's casinos. Despite this advice, Mr. Coleman's evidence was that he did press the civil service to move forward with Mr. Kroeker's recommendation to establish a cross-agency task force.[518]

514 Evidence of R. Coleman, Transcript, April 28, 2021, pp 114–15; Evidence of S. Bond, Transcript, April 22, 2021, pp 53–54.

515 Evidence of S. Bond, Transcript, April 22, 2021, pp 65–66.

516 Exhibit 927, Advice to Minister February 2012; Exhibit 928, Advice to Minister Issues Note; Exhibit 929, Advice to Minister, Issues Note, re Gaming Review AML Measures at BC Facilities (February 23, 2012); Exhibit 930, Advice to Minister, Issues Note, re BCLC's Anti–Money Laundering Measures (February 23, 2012); Evidence of R. Coleman, Transcript, April 28, 2021, pp 57–70,72–84.

517 Evidence of R. Coleman, Transcript, April 28, 2021, pp 72–73; Exhibit 928, Advice to Minister Issues Note; Exhibit 141, Summary Review 2011, p 15.

518 Evidence of R. Coleman, Transcript, April 28, 2021, pp 124–25.

Given the warnings that Mr. Coleman had received at the end of his previous tenure as minister responsible for gaming, however, it was not enough for him to simply rely on the assurances of BCLC and GPEB and the conclusions set out in Mr. Kroeker's report. Mr. Coleman had been warned by Mr. Vander Graaf and Mr. Baxter of serious criminality in the industry for which he was responsible. Further, Mr. Kroeker's recommendation that "BCLC should better align its corporate view and staff training on what constitutes money laundering with that of enforcement agencies and the provisions of the relevant statutes"[519] ought to have given Mr. Coleman reason to take a cautious approach with advice from BCLC. While Mr. Kroeker's overall conclusions suggested that there was no great cause for concern regarding money laundering in the gaming industry at this time, given the information available to him suggesting otherwise, it was incumbent upon Mr. Coleman to continue to carefully monitor suspicious activity in the industry.

To Mr. Coleman's credit, it appears from his evidence that, to some extent, he did so. Mr. Coleman recalled that, in 2012, he had been informed that large cash transactions had increased and testified that he expected he would have been aware of the numbers of large cash transactions at the time.[520] If this is true, then Mr. Coleman would have had some awareness that such transactions had increased significantly since he was last responsible for the industry. Whereas only 117 section 86 reports related to suspicious cash transactions were reported to GPEB in 2009–10, the number of such reports increased rapidly to 459 in 2010–11, 861 in 2011–12, and 1,062 in 2012–13.[521] Mr. Coleman could not recall precisely what information he was given about these numbers at this time,[522] so it is not possible to say with certainty whether he was aware of these precise figures. However, in my view, given the warnings he had received from Mr. Vander Graaf and Mr. Baxter, he ought to have been. In response, he should have recognized that there was a need to take aggressive action to bring an immediate end to the suspicious activity that, by the end of his tenure, was clearly spiralling out of control. Mr. Coleman did not take such action. In this regard, in my view, a critical opportunity for decisive action was missed.

Ms. Bond

Shirley Bond has served as a member of British Columbia's Legislative Assembly for approximately 20 years and has held a variety of cabinet posts.[523] Unlike Mr. Coleman, Ms. Bond served as minister responsible for gaming for only a single brief period from March 2011 to February 2012.[524] During the 11 months that she held this position, Ms. Bond also served as the minister of public safety and solicitor general.[525] The

519 Exhibit 141, Summary Review 2011, p 3.
520 Evidence of R. Coleman, Transcript, April 28, 2021, p 190.
521 Exhibit 181, Vander Graaf #1, exhibit O.
522 Evidence of R. Coleman, Transcript, April 28, 2021, p 190.
523 Evidence of S. Bond, Transcript, April 22, 2021, pp 53–54.
524 Ibid, pp 53–54.
525 Ibid, p 53.

gaming portfolio was reassigned to Mr. Coleman in February 2012, when Ms. Bond was appointed minister of justice and attorney general, effectively unifying the portfolio of the solicitor general, which Ms. Bond already held, with that of the attorney general.[526]

While her tenure was brief, Ms. Bond served as Minister responsible for gaming at a critical time in the evolution of money laundering in the gaming industry. As indicated in the discussion of Mr. Coleman's tenure, suspicious transactions in the industry began to accelerate during this time period. A report of findings prepared by the GPEB investigation division in October 2013 reveals that, from 2010–11 to 2011–12, the number of section 86 reports related to suspicious cash transactions received by the Branch nearly doubled from 459 to 861.[527] The same report suggests that a similar increase was observed in the value of suspicious cash accepted in these transactions, indicating that while $39,572,313 in suspicious cash was accepted in the one-year period between July 1, 2010, and June 30, 2011, ending a few months into Ms. Bond's tenure, $87,435,297 was accepted between January 1 and December 31, 2012, which began just before Ms. Bond's tenure ended.[528] As Ms. Bond was in the role of minister responsible for gaming for only 11 months, none of these time periods precisely correspond to the dates of her tenure, and I do not suggest that her actions were responsible for this acceleration in suspicious transactions. However, these figures are indicative of the rate at which suspicious transactions in the industry were growing in and around the time that Ms. Bond was responsible for the portfolio.

These data also make clear that Ms. Bond's tenure was a pivotal opportunity for ministerial intervention. That the rate at which suspicious transactions and the volume of suspicious cash being accepted by casinos were both accelerating make it abundantly clear that there was a real need to look closely at what was taking place in the gaming industry at that time and to take more aggressive steps to curb suspicious activity. Further, knowing what we now know about how suspicious transactions continued to accelerate in the years that followed, there can be little doubt that had Ms. Bond, during her tenure, issued an appropriate ministerial directive to BCLC requiring meaningful limits on cash transactions or proof of the source of funds used in those transactions, she could have excluded vast quantities of illicit cash from the province's casinos in the years that followed. That Ms. Bond, like her predecessor and successor Mr. Coleman, did not issue such a directive represents an important missed opportunity to stop money laundering in the gaming industry just as it was reaching crisis levels.

As was the case with Mr. Coleman, however, it is essential that Ms. Bond's actions be considered in the context of the information available to her during the time of her tenure as minister responsible for gaming. When viewed in this light, it is not at all clear that Ms. Bond had a genuine opportunity to exercise her authority as suggested above, nor, in my view, is there a basis for faulting Ms. Bond for failing to do so.

526 Ibid, p 78; Evidence of C. Clark, Transcript, April 20, 2021, pp 14–16.

527 Exhibit 181, Vander Graaf #1, exhibit O.

528 Ibid.

Ms. Bond had no prior experience with the gaming industry before being assigned responsibility for this portfolio.[529] She testified that she received no briefings or directions from the previous minister or the premier as to issues of priority facing the gaming industry at this time.[530] Ms. Bond had no recollection of being briefed on the subject of large and suspicious cash transactions or money laundering in the province's casinos by BCLC[531] or GPEB.[532] She denied that she was ever advised that high-limit players were buying-in at the province's casinos for hundreds of thousands of dollars in cash, predominantly in $20 bills,[533] that Lower Mainland casinos were accepting millions of dollars in cash that they were reporting as suspicious,[534] or that some GPEB staff were concerned that these transactions might consist of the proceeds of crime provided to patrons by criminal organizations as part of a money laundering scheme.[535]

While it is undoubtedly alarming that these matters were not brought to the attention of the minister responsible, it is unsurprising given the evidence before me regarding the attitudes of BCLC and the leadership of GPEB during this time period. Ms. Bond was appointed minister responsible for gaming at a time when the GPEB investigation division was struggling to persuade the Branch's general managers and BCLC of the urgency of the crisis facing the industry. BCLC, at this time, was actively denying that suspicious cash transactions presented a money laundering threat, because patrons were putting their funds at risk and often losing.[536] GPEB went through a leadership transition from Mr. Sturko to Mr. Scott during Ms. Bond's tenure. There is insufficient evidence to establish that Mr. Sturko made any significant efforts to raise this issue with government,[537] and Mr. Scott gave evidence that, at this time, he was engaged in developing GPEB's anti–money laundering strategy and that the message he was communicating to government was that the matter was "under control."[538] As such, Ms. Bond's evidence that she did not receive advice or warnings impressing upon her the nature and extent of the crisis emerging in the gaming industry that required her urgent attention is consistent with the evidence before me of the perspectives of GPEB and BCLC.

It is not the case, however, that Ms. Bond received no information about money laundering in the industry. While there is no evidence that Ms. Bond had the opportunity to meet with Mr. Vander Graaf as Mr. Coleman did, she testified that she was aware of media reporting on this subject[539] and had distinct recollections of Mr. Kroeker's report,

529 Evidence of S. Bond, Transcript, April 22, 2021, p 55.
530 Ibid, p 55.
531 Ibid, pp 60, 79–80.
532 Ibid, pp 63, 79–80.
533 Ibid, p 80.
534 Ibid, p 80.
535 Ibid, p 81.
536 Exhibit 111, Karlovcec Letter December 2010.
537 Evidence of D. Sturko, Transcript, January 28, 2021, pp 122–27, 137–38, 158–60, 164–65.
538 Ibid, p 73.
539 Evidence of S. Bond, Transcript, April 22, 2021, pp 71–72.

which was completed around the time that she assumed responsibility for the gaming industry.[540] Her evidence was that implementation of Mr. Kroeker's report became the priority for her work within the gaming industry[541] and that, in accordance with the recommendations of the public service,[542] she accepted all 10 of the recommendations in Mr. Kroeker's report and directed that the first nine recommendations be implemented immediately, while the tenth would be delayed until such time that the impact of the first nine could be evaluated.[543] In Ms. Bond's words:[544]

> I think that from the beginning there was agreement that … we agreed to all of the recommendations. The question was about the timing and implementation. The advice that I received was that the first nine recommendations could be implemented in the short term and would make a material difference to enhancing anti–money laundering measures in British Columbia. So those moved forward immediately. We agreed with the tenth recommendation and it would be a matter of looking at the impact of the first nine before moving on to the tenth.

As discussed previously, the tenth recommendation involved the creation of "a cross-agency task force to investigate and gather intelligence on suspicious activities and transactions at B.C. gaming facilities."[545] A "confidential issues note" addressed to Ms. Bond at this time reveals that the advice Ms. Bond received with respect to this recommendation was as follows:[546]

> The Province believes action on other recommendations will significantly improve B.C.'s anti–money-laundering regime. Given that creating a cross-agency task force can be complex and costly, the Province will consider this recommendation only after GPEB has evaluated the effectiveness of responses to other recommendations.

It would be five years before any law enforcement unit that could be said to satisfy this recommendation was created. I am skeptical that JIGIT, which was established in 2016, was in any way motivated by this recommendation, but I do accept that, in effect, it did satisfy it. As discussed above, the creation of such a body was long overdue and filled a critical gap in the anti–money laundering apparatus surrounding the gaming industry.

Had Mr. Kroeker's recommendation been acted upon immediately, the existence of such a task force could have made a significant impact on money laundering in the gaming industry. While speculative, it is conceivable that such a task force could have taken up the operational plan developed by the RCMP IPOC unit in 2012, discussed earlier

540 Ibid, pp 56–57, 61, 63–64.

541 Ibid, pp 63–64.

542 Ibid, p 64.

543 Ibid, pp 65–66.

544 Ibid, pp 65–66.

545 Exhibit 141, Summary Review 2011, p 15.

546 Evidence of S. Bond, Transcript, April 22, 2021, pp 76–77; Exhibit 888, Advice to Minister, Confidential Issues Note, Anti–Money Laundering Review (August 24, 2011).

and in Chapter 39, when the IPOC unit was disbanded. Regardless, it seems clear that the existence of a force like the one proposed would have ensured much needed law enforcement engagement with the gaming industry, potentially disrupting the supply of suspicious cash and spurring enhancements to the anti–money laundering efforts of BCLC, GPEB, and other stakeholders, as the E-Pirate investigation would years later.

As such, in my view, had Ms. Bond directed the immediate implementation of this recommendation, it may well have advanced efforts to respond to money laundering in the gaming industry. In this sense, this too can be viewed as a missed opportunity during Ms. Bond's tenure as the responsible minister.

Again, however, it is difficult, in my view, to fault Ms. Bond for failing to take this action when viewed in the context of the information available to her. As noted above, Ms. Bond was not given an accurate picture of the urgency of the emerging money laundering crisis facing the industry during her tenure. Mr. Kroeker's report itself furthered the impression that there was no urgent need to take action with respect to money laundering in the industry. While making recommendations for improvement, it concluded that:[547]

> BCLC, in terms of policies and procedures, has a robust anti–money laundering regime in place. Further, it was determined that GPEB has the required level of anti–money laundering expertise and is capable of discharging its responsibility to provide oversight as it relates to anti–money laundering and associated criminal activities at gaming facilities.

In my view, Ms. Bond's actions cannot be said to have significantly contributed to the growth and perpetuation of money laundering in this province's casinos. There were, undoubtedly, actions that Ms. Bond could have taken to address the burgeoning money laundering crisis in the industry during her tenure as minister responsible for gaming. These include issuing a directive to BCLC requiring meaningful limits on cash transactions, or that patrons present proof of the source of funds used in large or suspicious transactions prior to their acceptance or directing the immediate implementation of Mr. Kroeker's recommendation to create a cross-agency task force.

However, given the information available to Ms. Bond at this time, it is simply not reasonable to expect that she could have recognized the urgent need to take these actions. There is no evidence before me sufficient to establish that Ms. Bond was briefed on the rapid rise in suspicious transactions that occurred during her tenure, or of the details of those transactions. Further, Mr. Kroeker's report would have impressed upon her that there was no need for urgent measures as the anti–money laundering regime implemented by BCLC and GPEB was robust and adequate to address money laundering and associated criminal activities.

With respect to Mr. Kroeker's recommendation that a "cross-agency task force" be established, I can understand how the advice Ms. Bond received to implement

547 Exhibit 141, Summary Review 2011, p 15.

90 percent of the report's recommendations immediately, while evaluating the costliest and most complex recommendation once the impact of the first nine were known,[548] would have seemed entirely prudent. For a newly appointed responsible minister, with no background in the industry, it was not only reasonable but entirely prudent for Ms. Bond to have followed the advice she received from the civil service in this regard, and, in my view, she cannot be faulted for having done so.

Mr. de Jong

Mr. de Jong was first elected to the Legislative Assembly in 1994.[549] Between 2001 and 2017, Mr. de Jong served in government, holding cabinet posts including minister of forests, minister of labour and citizen services, minister of aboriginal relations and reconciliation, attorney general, minister of health, and minister of finance.[550] Following the 2013 provincial election, while serving as minister of finance, Mr. de Jong was appointed the minister responsible for gaming, a position he held until the subsequent provincial election in 2017.[551]

While suspicious transactions had already accelerated to extreme levels by the time of his appointment, it was under Mr. de Jong's watch that the flood of suspicious cash entering the province's casinos reached its peak in 2014 and 2015. It was also during Mr. de Jong's tenure, however, that the industry finally began to see a reversal of this trend and, by the end of Mr. de Jong's term as the responsible minister, a significant decline in both the volume and value of suspicious transactions in the province's casinos had occurred.

In order to consider the significance of Mr. de Jong's conduct and the extent to which it contributed to money laundering in the province's gaming industry, it is necessary to divide his tenure into two time periods. The first of these spans the time from Mr. de Jong's appointment as responsible minister in 2013 to September 2015. During this period, despite the unprecedented volume of suspicious cash being accepted in the province's casinos, Mr. de Jong took no meaningful action in response. In my view, however, it does not appear that Mr. de Jong received information that would have led him to identify a need for action. In contrast, at the outset of the second period, beginning in September 2015 and continuing to the end of Mr. de Jong's tenure in 2017, Mr. de Jong finally received accurate information about the state of the crisis facing the gaming industry and took meaningful action in response. While significant, in my view, the actions taken by Mr. de Jong at that time – and in the years that followed – were not commensurate with the gravity of the crisis facing the industry. The inadequacy of these actions permitted money laundering to persist at unacceptable levels in the gaming industry for more than two additional years.

548 Evidence of S. Bond, Transcript, April 22, 2021, p 76–77; Exhibit 888, Advice to Minister, Confidential Issues Note, Anti–Money Laundering Review, August 24, 2011.

549 Evidence of M. de Jong, Transcript, April 23, 2021, p 2.

550 Ibid, pp 2–3.

551 Ibid, pp 3–4.

2013–2015

During the first half of Mr. de Jong's tenure as minister responsible for gaming, the rate at which suspicious cash was accepted in the province's casinos accelerated beyond even that observed during the tenures of Mr. Coleman and Ms. Bond. In 2014, his first full year in the role and the final year before the formalization of BCLC's cash conditions program, BCLC reported 1,631 suspicious transactions to FINTRAC with a total value of $195,282,302[552] – an average of nearly 4.5 transactions and more than $500,000 per day. Because these figures include eGaming and external request reports, it is not the case that each of these transactions occurred within a land-based casino.[553] Nevertheless, they all took place within the industry for which Mr. de Jong was responsible and offer insight into the volume of suspicious funds being accepted by the gaming industry at the outset of his tenure.

It is difficult to envision a stronger case for ministerial intervention than that presented by these figures alongside the descriptions of suspicious transactions discussed earlier in this Report. The absence of any such intervention by Mr. de Jong during the first half of his tenure can only be viewed as a missed opportunity to stem the flow of illicit funds into the gaming industry at a time when such intervention was essential.

As in the case of his predecessors, however, Mr. de Jong's inaction during this period must be viewed in the context of the information that was provided to him. Despite the obvious urgency of the circumstances facing the gaming industry at this time, there is no evidence that anyone brought to Mr. de Jong's attention the rate at which suspicious transactions were being accepted in the province's casinos at the time. Rather, the evidence before me suggests that the message conveyed to Mr. de Jong at this time was that the province's gaming industry had a robust anti–money laundering program,[554] that there was a strategy in place to enhance that program,[555] and that anti–money laundering was a priority for both BCLC and GPEB.[556] As an example, an "Estimates Note" dated June 14, 2013 – very early in Mr. de Jong's tenure – signed by both Mr. Graydon and Mr. Scott indicated that "[t]he anti–money laundering policies and procedures in place at all BC casinos are among the most stringent of any jurisdiction in Canada."[557] Similar messages continued to be conveyed to Mr. de Jong as late as April 2015[558] – mere months

552 Exhibit 784, Cuglietta #2, exhibit A.

553 Exhibit 482, Cuglietta #1, exhibit A.

554 Exhibit 931, June 14 2013 Briefing Document; Exhibit 889, Advice to Minister, Draft GCPE-FIN Issue Notes, re GPEB Release of Section 86 reports (September 30, 2014); Exhibit 896, Advice to Minister Estimate Note (April 22, 2015) [Advice to Minister Estimate Note April 2015]; Evidence of M. De Jong, Transcript, April 23, 2021, pp 124–27.

555 Exhibit 931, June 14 2013 Briefing Document; Exhibit 896, Advice to Minister Estimate Note April 2015; Evidence, M. de Jong, Transcript, April 23, 2021, pp 14, 22–23, 48; Exhibit 889, Advice to Minister, Draft GCPE-FIN Issue Notes, re GPEB Release of Section 86 reports (September 30, 2014); Exhibit 894, BCLC Briefing June 2013.

556 Evidence, M. de Jong, Transcript, April 23, 2021, p 122.

557 Exhibit 931, June 14 2013 Briefing Document.

558 Exhibit 896, Advice to Minister Estimate Note April 2015.

before GPEB abruptly changed course and urgently sought his intervention.[559] The first bullet point in an "Estimates Note" dated April 22, 2015, stated that "British Columbia has a robust anti–money laundering program with significant investments in technology, training, and certification."[560]

I do not mean to suggest that Mr. de Jong was an entirely passive recipient of information during this period. As the minister responsible for gaming, he, of course, had the capacity to seek out additional information and, had he done so, may well have discovered the crisis facing the industry long before it was brought to his attention in September 2015. In retrospect, it would have been highly beneficial if Mr. de Jong had done so. I am cognizant, however, of the reality that gaming was only a small part of Mr. de Jong's very heavy portfolio as minister of finance. It is not realistic to have expected him to take the time to interrogate all of the advice he received on all aspects of his responsibilities. Absent some reason to doubt the information provided to him, it was, in my view, reasonable for Mr. de Jong to rely on that information. On that basis, I am unable to fault Mr. de Jong for failing to intervene to stop the flow of illicit funds into the province's casinos during this period.

2015–2017

The informational deficit under which Mr. de Jong was operating through the first half of his tenure abruptly disappeared in September 2015. As described in Chapter 11, and in Mr. de Jong's evidence, he received two briefings at this time, the first providing a basic overview of the E-Pirate investigation[561] and the second raising to the minister's attention GPEB's concern about the rate at which suspicious cash was entering the gaming industry.[562] That Mr. de Jong had not previously been made aware of the extent of this issue is underscored by his evidence that this information "sparked concern" and was "surprising."[563]

Having received this information, Mr. de Jong developed an immediate appreciation for the urgency of the situation and clearly took the matter seriously. His response consisted principally of two actions: initiating the creation of JIGIT and issuing a letter containing directions to BCLC. While both positive, the second of these actions was not, in my view, commensurate with the scale of the crisis facing the industry.

The creation of JIGIT was a critical and long overdue step in resolving the deficiencies in the anti–money laundering apparatus surrounding the gaming industry. As discussed

559 Evidence of M. de Jong, Transcript, April 23, 2021, pp 66–70; Exhibit 541, Mazure #1, para 181; Evidence of J. Mazure, Transcript, February 5, 2021, pp 114–121; Exhibit 922, Wenezenki-Yolland #1, paras 119–120 and 134–140; Exhibit 552, MOF Strategy; Exhibit 553, MOF Briefing Document; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 49–52; Exhibit 587, Meilleur #1, paras 86–90.

560 Exhibit 896, Advice to Minister Estimate Note.

561 Evidence of M. De Jong, Transcript, April 23, 2021, pp 67–70.

562 Ibid, pp 66–70; Exhibit 541, Mazure #1, para 181; Evidence of J. Mazure, Transcript, February 5, 2021, pp 114–21; Exhibit 922, Wenezenki-Yolland #1, paras 119–20, 134–40; Exhibit 552, MOF Strategy; Exhibit 553, MOF Briefing Document; Evidence of C. Wenezenki-Yolland, Transcript, April 27, 2021, pp 49–52; Exhibit 587, Meilleur #1, paras 86–90.

563 Evidence of M. de Jong, Transcript, April 23, 2021, p 69.

above, the absence of law enforcement resources available to the industry had been recognized as a gap in enforcement for two decades prior to the creation of this team. In August and September 2015, both BCLC and GPEB raised their concerns about this gap directly to Mr. de Jong.[564] In response, Mr. de Jong spearheaded an effort to establish this new team within CFSEU with remarkable speed,[565] deliberately leveraging the weight of the offices of the Minister of Finance and the Government House Leader, both of which he held at the time, to lend momentum to the effort and make clear that any funds devoted to this effort must remain dedicated to their intended purpose.[566] In this regard, Mr. de Jong's efforts were appropriate and adequate and should be recognized as a critical contribution to eliminating money laundering from the gaming industry.

Regrettably, the same cannot be said of Mr. de Jong's second major act at this time, the issuance of directions to BCLC in the form of a letter to Mr. Smith dated October 1, 2015.[567] The contents of this direction were discussed in Chapter 11 and I will not address them in detail again here. My concern is not what was included in the direction, all of which I accept was helpful and appropriate, particularly Mr. de Jong's direction to BCLC to take further action to evaluate the source of funds prior to cash acceptance. Rather, my concern is that Mr. de Jong's direction failed to go far enough, in that it did not require that BCLC immediately cease accepting the highly suspicious cash that had become commonplace in the industry. I note that, at the September 2015 briefing, Mr. de Jong was presented with example directives that would have achieved this objective, including those requiring BCLC to:[568]

- enhance all anti–money laundering initiatives and measures, including ensuring legitimacy of all currency used for gaming in BC;
- determine all high-limit players' source of funds and source of wealth; and
- at a minimum and in all circumstances, determine source of funds and source of wealth as part of BCLC's existing Customer Due Diligence Program and its Know Your Customer policy and programs.

I understand and accept Mr. de Jong's evidence that he had been repeatedly advised to avoid prescriptive approaches to regulation and that he may have perceived measures such as those identified in the example directives as falling afoul of this advice.[569] While there may be room for debate as to whether these measures were actually incompatible with a risk-based approach, I accept Mr. de Jong's evidence that he understood this to be the case and was adverse to such measures for this reason.

564 Exhibit 505, Lightbody #1, exhibit 49; Exhibit 552, MOF Strategy; Evidence of M. de Jong, Transcript, April 23, 2021, pp 99–100.

565 Evidence of C. Clark, Transcript, April 20, 2021, p 56; Exhibit 922, Wenezenki-Yolland #1, paras 141–48; Exhibit 541, Mazure #1, paras 199–207; Evidence of M. de Jong, Transcript, April 23, 2021, pp 31, 67–68, 79–83.

566 Evidence of M. de Jong, Transcript, April 23, 2021, pp 82–83.

567 Exhibit 900, de Jong Letter 2015.

568 Exhibit 553, MOF Briefing Document.

569 Evidence of M. de Jong, Transcript, April 23, 2021, pp 1–13, 35–37, 87–92, 139–40, 144–49.

However, the urgency of the crisis facing the gaming industry at this time was, in my view, so great that it required that philosophical preferences for particular forms of regulation be set aside in favour of actions guaranteed to immediately solve the crisis in the industry. In the first six months of 2015, BCLC reported 954 suspicious transactions, including 315 suspicious transactions with individual values of over $100,000.[570] This amounts to a daily average of more than five total suspicious transactions, including two of $100,000 or more. The total value of these suspicious transactions was $107,324,958, meaning that an average of nearly $600,000 in suspicious funds was accepted each day.[571] Notably, these values are for transactions occurring *before* the July 2015 spike in suspicious transactions that saw more than $20 million in suspicious cash transactions of $50,000 or more, including $14 million in $20 bills, accepted by casinos in a single month.[572]

These figures, alongside the limited information Mr. de Jong now had about the E-Pirate investigation,[573] illustrate the level of criminality to which the province's gaming industry was subject at that time. While it is not clear that Mr. de Jong was advised of the precise figures outlined above for the first half of 2015, he was made aware of the scale of the suspicious activity identified in July 2015. Aware of the E-Pirate investigation and armed with the information provided to him in the September 2015 briefing, it was incumbent upon Mr. de Jong to immediately take whatever steps were necessary to stop the flow of illicit funds into the province's casinos, regardless of their fit within a particular regulatory model. Despite having ministerial directives put before him that would have accomplished this end, he did not do so. As a result, casinos continued to accept the proceeds of crime, which ultimately formed part of government revenue.

In his evidence, Mr. de Jong indicated that he continued to monitor rates of suspicious transactions in the gaming industry in the years that followed and took the decline in these rates as evidence that the measures imposed by BCLC were having their intended effect.[574] I have already discussed how BCLC's cash conditions program and related measures resulted in a decline in the rate at which the province's casinos were accepting suspicious cash. While I agree with Mr. de Jong that the data from this period demonstrates progress, it is also, in my view, reflective of the inadequacy of these measures. In 2016, Mr. de Jong's final full year as minister responsible for gaming – and the first following the issuance of his directions in October 2015 – BCLC reported 1,649 suspicious transactions, with a value of $79,458,118.[575] While this value represented a decline of more than $100 million from 2015 levels,[576] it nevertheless continued to represent an enormous volume of suspicious cash flowing through the

570 Exhibit 482, Cuglietta #1, exhibit A.

571 Ibid.

572 Evidence of R. Barber, Transcript, November 3, 2020, pp 21–22, 153; Exhibit 144, Ackles #3, paras 23–24 and exhibit D; Exhibit 145, Barber #1, paras 92–93 and exhibit F; Evidence of R. Barber, Transcript, November 2, 2020, pp 41–42.

573 Evidence of M. de Jong, Transcript, April 23, 2021, pp 67–70.

574 Ibid, pp 93–94, 141, 156–57.

575 Exhibit 482, Cuglietta #1, exhibit A; Exhibit 784, Cuglietta #2, exhibit A.

576 Exhibit 784, Cuglietta #2, exhibit A.

industry for which Mr. de Jong was responsible and which ultimately contributed to the provincial government's revenues.

Some insight into the results that could have been achieved from a direction commensurate with the urgency of the circumstances is observed in the impact of Dr. German's recommendation, implemented as modified by BCLC, which, generally speaking, was consistent with the example directives put to Mr. de Jong in September 2015.[577] In 2018, the year in which that recommendation was implemented, BCLC reported only 290 suspicious transactions with a total value of $5,520,550.[578] A more decisive direction requiring a comparable policy response would have been far more impactful than that issued by Mr. de Jong and would have excluded substantial quantities of illicit funds from the gaming industry that were, in the absence of a more decisive direction, accepted by casinos and ultimately received by government.

It follows from this reasoning that, rather than being content with the pace of progress observed following his direction, Mr. de Jong should have seen, in the time that he remained responsible for the gaming industry following his October 2015 direction, that it had not adequately resolved the issue and that the rate at which suspicious funds were entering the industry remained unacceptably high. Mr. de Jong should have recognized prior to the end of his tenure that further intervention was required and issued additional directions requiring more decisive action. That he did not do so, in my view, exacerbated the inadequacy of his initial direction.

Conclusion

Despite these shortcomings, it is important to recognize the significance of the actions that Mr. de Jong *did* take in response to the information presented to him in September 2015. To some extent, Mr. de Jong appears to have recognized the urgency of the situation facing the gaming industry and taken action to respond. His efforts to create JIGIT were a significant achievement, and his direction to BCLC was a step in the right direction. That it was under Mr. de Jong's watch that the tide of suspicious transactions finally turned and the suspicious cash entering the province's casinos began to decline is a testament to the significance of his efforts.

However, that Mr. de Jong made progress in this regard does not mean that his actions met the challenge with which he was confronted. In my view, they did not. The scale of the crisis gripping the province's casinos at this time required much more decisive action. While positive, the steps taken by Mr. de Jong were simply not commensurate with the urgency of the problem facing the industry at that time. The decline in suspicious activity that occurred under his watch is evidence that Mr. de Jong left the province's gaming industry in better condition than he found it, but the scale of such activity that remained at the time of his departure is proof that the steps he took simply were not enough.

577 Exhibit 553, MOF Briefing Document.

578 Exhibit 482, Cuglietta #1, exhibit A; Exhibit 784, Cuglietta #2, exhibit A.

Ms. Clark

Christy Clark served as the premier of British Columbia from March 2011 to July 2017.[579] Prior to her tenure as premier, Ms. Clark was an MLA from 1996 until 2005[580] and occupied cabinet positions including deputy premier, minister of education, and minister for children and families while in government from 2001 to 2005.[581] As Ms. Clark's initial tenure in the Legislature pre-dated the rise of money laundering in the province's gaming industry and because she did not hold cabinet positions of clear relevance to this Commission's mandate, the discussion that follows will focus on Ms. Clark's term as premier.

Ms. Clark served as premier through much of the rise and subsequent decline of suspicious cash transactions in the province's gaming industry. Although she was not in government when these transactions began to attract concern from the GPEB investigation division in 2007 and 2008,[582] Ms. Clark became premier as the rate of suspicious cash entering the province's casinos began to rise in earnest. She remained in this role as the acceptance of suspicious cash peaked in 2014 and 2015 and as it declined but remained at significant levels following that peak. While Ms. Clark's tenure did not span the entirety of the timeframe in which I have found that money laundering was occurring in the province's gaming industry, there was not a day that Ms. Clark occupied the premier's office that did not fall within this period of time.

Ms. Clark's role as premier was, of course, distinct from those of the individuals who served as ministers responsible for gaming during her tenure. Ms. Clark did not have – and could not be expected to have had – the same level of direct engagement with the industry as the responsible ministers. Nor did she have any of the statutory powers granted to the responsible minister by the *Gaming Control Act*. As premier, Ms. Clark was charged with providing broad oversight and direction to government as a whole, and I accept that the gaming industry was a small part of a vast area of responsibility.

This does not mean, however, that Ms. Clark exercised no influence over the gaming industry. To the contrary, Ms. Clark selected the responsible ministers,[583] issued directions to those ministers in the form of mandate letters,[584] and was engaged in setting the priorities of government.[585] As such, while Ms. Clark did not have day-to-day, hands-on responsibility for the gaming industry, and while her role was distinct from that of the responsible ministers who served in her cabinet, it is clear that she did bear some level of responsibility for the industry. It is fair to consider whether her actions or omissions contributed to the growth and perpetuation of money laundering

579 Evidence of C. Clark, Transcript, April 20, 2021, p 3.

580 Ibid, p 2.

581 Ibid.

582 Exhibit 181, Vander Graaf #1, para 35–38 and exhibit G; Evidence of J. Schalk, Transcript, January 22, 2021, p 109; Evidence of L. Vander Graaf, Transcript, November 12, 2020, pp 48, 51–52, 165–66; Evidence of L. Vander Graaf, Transcript, November 13, 2020, p 39.

583 Evidence of C. Clark, Transcript, April 20, 2021, pp 3–6, 14.

584 Ibid, pp 13–14.

585 Ibid, pp 8–12, 49–50.

in the province's casinos. For the reasons outlined below, in my view, they did. As was the case with Mr. Coleman and Mr. de Jong, it is useful to consider Ms. Clark's tenure as premier in two distinct time periods, the first starting at the beginning of her tenure as premier in 2011 and lasting until the summer of 2015, and the second beginning at the conclusion of this first period and continuing until the end of her premiership in 2017.

2011–2015

Ms. Clark was aware of concerns about money laundering in the gaming industry from the beginning of her tenure as premier.[586] She knew of and was very concerned by media coverage of suspicious cash transactions in the province's casinos leading up to her taking office and understood that this coverage suggested that these transactions may have been connected to money laundering.[587] Upon taking office, Ms. Clark soon learned of and reviewed Mr. Kroeker's report.[588] Her initial response to the report was that government needed to implement all of Mr. Kroeker's recommendations.[589]

In the years that followed, Ms. Clark took limited steps to monitor the progress being made on this issue. She does not seem to have been aware that the rate at which suspicious cash was being accepted in the province's casinos had accelerated substantially. While Ms. Clark did not seek regular briefings on this subject,[590] she maintained some level of awareness of what was occurring in the industry through letters of expectations issued to BCLC and through BCLC's service plans and informal reporting to government.[591] Despite these efforts, Ms. Clark did not have a clear understanding of what was occurring in the industry following the delivery of Mr. Kroeker's report. While Ms. Clark acknowledged that she understood that "more needed to be done,"[592] she testified that she was not aware, prior to 2015, that buy-ins for hundreds of thousands of dollars, predominantly in $20 bills, had become commonplace at Lower Mainland casinos,[593] or that casino patrons were having hundreds of thousands of dollars, often largely in $20 bills, delivered to them at casinos, often late at night.[594] She was also not aware that, after 2011, maximum betting limits increased to $100,000 per hand.[595] Ms. Clark testified that, until 2015, she understood that Mr. Kroeker's recommendations were having their desired effect,[596] further suggesting that she was unaware of the rapid acceleration in large and suspicious cash transactions following the receipt of Mr. Kroeker's report.

586 Ibid, pp 20–21, 25.
587 Ibid, pp 25–26.
588 Ibid, pp 97–98.
589 Ibid, p 98.
590 Ibid, pp 32–33.
591 Ibid, pp 20–21, 27–28, 37–40, 99, 103.
592 Ibid, pp 37–38.
593 Ibid, p 35.
594 Ibid, pp 41–42.
595 Ibid, p 49.
596 Ibid, p 53.

With the benefit of hindsight, it would have been helpful for Ms. Clark to have remained actively engaged with this issue and taken steps to ensure resolution of the issues she acknowledged were of concern to her. I accept, however, that based on the information available to Ms. Clark at the time, her engagement with this matter was reasonable and appropriate. Having learned of a potentially serious issue facing an industry regulated by government and "conducted and managed" by a Crown corporation, Ms. Clark took steps to understand what her government was doing in response. She learned that a previous responsible minister had commissioned an independent report examining this issue, reviewed that report, and indicated her support for the implementation of its recommendations.

Having done so, it was not unreasonable, at that point, for Ms. Clark to redirect her attention elsewhere, trusting that the issue would be brought to her attention again if her further engagement was required. The conclusions set out in Mr. Kroeker's report were largely positive and would not have indicated to Ms. Clark the extent of the crisis developing in the province's casinos. Given the succession of experienced, highly capable ministers appointed by Ms. Clark to oversee the gaming industry, it was reasonable for her to rely on her ministers to bring matters requiring her involvement to her attention. There is no evidence that, prior to 2015, Ms. Clark received any such advice.[597]

2015–2017

In 2015, however, Ms. Clark was advised of troubling developments in the gaming industry that, in my view, did require her direct and immediate engagement. It is at this stage that Ms. Clark's actions fell short of what was required. Ms. Clark testified that she was advised by Mr. de Jong in 2015 that "we have a problem" and that "there had been a spike in reports of suspicious activity" in the province's casinos.[598] Ms. Clark understood at that time that a significant number of transactions at Lower Mainland casinos were being reported as suspicious.[599] She explained that she recognized this as a "serious problem" and viewed it as cause for "serious concern."[600] Asked whether this was the first occasion that she was made aware of an increase in suspicious activity since 2011, Ms. Clark confirmed that it was.[601]

Despite Ms. Clark's concern about this issue, it is clear from her evidence that she took minimal steps to engage with, or even fully understand, the suspicious activity taking place in the province's casinos at this time. Ms. Clark testified that she did not make inquiries as to whether the vast quantities of cash identified as suspicious were being accepted by casinos, and consequently, contributing to the Province's revenues.[602] She acknowledged that she never discussed with any of the responsible ministers that

597 Ibid, pp 53–54.
598 Ibid, pp 34, 44, 54.
599 Ibid, pp 34, 44.
600 Ibid, pp 42, 44.
601 Ibid, pp 34–35.
602 Ibid, pp 44–48.

served in her cabinet the options of placing a cap on the quantity of cash that could be used to buy-in in casinos or implementing requirements that cash be sourced prior to its acceptance.[603] Ms. Clark also gave evidence that she never had discussions with any of those ministers regarding the advisability of offering high-limit gaming that allowed bets of up to $100,000 in an industry that remained dominated by cash.[604]

While Ms. Clark's decision to focus her attention elsewhere prior to learning of the 2015 spike in suspicious transactions was reasonable, upon learning of this development from Mr. de Jong, it should have been abundantly clear to Ms. Clark that the gaming industry was facing a crisis requiring her urgent attention. It was incumbent upon Ms. Clark at this point to ensure that she fully understood the issue and that her government was taking the action necessary to resolve it as quickly as possible. While Ms. Clark's government did take positive steps at this point, including the creation of JIGIT,[605] Ms. Clark did not engage with this issue to the extent required. Ms. Clark failed to discuss with Mr. de Jong obvious steps that could have been taken to immediately cease the acceptance of these suspicious funds and did not even inquire as to whether or not casinos – and, in turn, the government – were, in fact, accepting the enormous volumes of suspicious cash she now knew were present in the province's casinos. While Ms. Clark certainly does not bear sole responsibility for the perpetuation of this problem beyond 2015, Ms. Clark's lack of engagement at this time meant that she was not in a position to ensure that her government took steps sufficient to make certain that casinos did not continue to accept illicit cash and that her government was not funded by the proceeds of crime. Having been made aware of the extraordinary volume of suspicious funds present in the province's casinos, it was incumbent on Ms. Clark, as the leader of the government, to ensure that decisive action was taken to bring this unacceptable state of affairs to an immediate and complete end. While I accept that some meaningful action was taken in the wake of these revelations and that the quantity of suspicious cash accepted by casinos declined in the final years of Ms. Clark's tenure, the volume of suspicious cash in the gaming industry remained at an elevated level until the end of Ms. Clark's term as premier. Given Ms. Clark's lack of engagement with this issue following 2015 and her failure to make inquiries that were, in my view, clearly necessary at that time, some responsibility for the perpetuation of this activity following 2015 must lie with Ms. Clark.

603 Ibid, pp 48–49.

604 Ibid, pp 34, 47, 54.

605 In her evidence, Ms. Clark suggested that the creation of JIGIT represented the eventual fulfillment of Mr. Kroeker's 2011 recommendation that the Province establish a "cross agency task force to investigate and gather intelligence on suspicious activity and transactions at BC gaming facilities." The creation of JIGIT does appear to have fulfilled the spirit of the recommendation made by Mr. Kroeker. However, the evidence before me does not demonstrate that the creation of this unit in 2016 was in any way motivated by it. The creation of JIGIT was motivated by the recommendations of BCLC and GPEB made immediately prior to the creation of the unit. There is no evidence that government had been actively working on the creation of a cross-agency task force since the time of Mr. Kroeker's recommendation and no evidence that any of those actually involved in bringing JIGIT to life were motivated by Mr. Kroeker's recommendation.

Conclusion

The problem of illicit cash in casinos grew substantially during Ms. Clark's tenure as premier. While the rate at which suspicious transactions were accepted by this province's casinos began to decline in the latter part of her premiership, this issue was not finally resolved until after her departure. When, in 2015, she was made aware that suspicious cash was being accepted at Lower Mainland casinos at an alarming rate, she did not engage with that issue to a sufficient degree to ensure this practice was immediately and definitively stopped. The premier learned that casinos operated by a Crown corporation and regulated by government were reporting enormous quantities of suspicious cash and, in her words, this was cause for "serious concern." A response that failed to determine whether these funds were contributing to the revenue of the Province and failed to stop this practice for the remainder of her tenure as premier was inadequate.

Mr. Eby

Following the 2017 provincial election and the resulting change in government, Mr. Eby succeeded Mr. de Jong as minister responsible for gaming.[606] Mr. Eby was first elected to the Legislature in 2013 and served as opposition spokesperson for gaming, among other roles, prior to the 2017 election.[607] Like many of his predecessors, Mr. Eby's responsibility for gaming was a small part of a much larger cabinet portfolio, as he was also appointed attorney general[608] and assigned responsibility for the Insurance Corporation of British Columbia and the Liquor Distribution Branch.[609]

Thanks to the progress made during Mr. de Jong's tenure, the gaming industry for which Mr. Eby assumed responsibility in 2017, while still characterized by significant quantities of suspicious cash, was much improved from what it had been in 2015. In the year in which Mr. Eby became the minister responsible for gaming, BCLC reported 1,045 suspicious transactions[610] with a total value of $45,300,463.[611] While still troublingly high, these numbers represent a vast reduction from the peak of the crisis only a few years earlier.[612]

Mr. Eby detailed in his evidence how he received briefings from GPEB and BCLC that seemed to present vastly different perspectives on the issue of money laundering in the gaming industry. Whereas GPEB's briefing depicted an industry awash in illicit funds and a lottery corporation resistant to taking any steps in response,[613] BCLC described the

606 Evidence of D. Eby, Transcript, April 26, 2021, pp 2–3, 23.

607 Ibid, pp 2, 22.

608 Ibid, pp 2–3, 23.

609 Ibid, pp 226–27.

610 Exhibit 482, Cuglietta #1, exhibit A.

611 Ibid, exhibit A.

612 Ibid, exhibit A.

613 Evidence of D. Eby, Transcript, April 26, 2021, pp 34–43; Exhibit 906, Provincial AML Strategy by John Mazure and Len Meilleur (August 2017); Exhibit 907, Provincial AML Strategy (Part II) by John Mazure and Len Meilleur.

industry's anti–money laundering regime as "North American-leading" and FINTRAC-approved,[614] leaving Mr. Eby with the impression that BCLC had no concerns about the volume of suspicious cash entering the province's casinos or the potential that casinos could be used to launder the proceeds of crime.[615]

Mr. Eby responded to this conflicting advice by seeking the external advice of someone he understood to have the requisite expertise[616] to assist him in making sense of the situation and identifying a path forward.[617] This was, in my view, a prudent choice. It is apparent from Mr. Eby's evidence that he did not consider himself equipped to discern which of the two conflicting briefings was accurate – as discussed in Chapter 12, the answer proved to be neither – or how to move forward.[618] As such it was entirely sensible to seek further guidance and ensure he had an accurate understanding of the problem he was facing before deciding how to respond.

This course of action proved fruitful. Within months of the commencement of Dr. German's review, he delivered an interim recommendation that patrons be required to declare the source of funds used in transactions of $10,000 or more in cash or other bearer monetary instruments.[619] Mr. Eby made clear to BCLC his expectation that this recommendation be implemented.[620] Once strengthened by BCLC[621] and implemented, this recommendation dramatically reduced suspicious cash transactions[622] and effectively ended the money laundering crisis that had plagued the gaming industry for a decade.

Given the success of these efforts, Mr. Eby's actions cannot be said to have contributed to the rise or perpetuation of money laundering in the gaming industry. To the contrary, in my view, Mr. Eby's efforts, which built upon the progress made during Mr. de Jong's tenure, contributed significantly toward the final resolution of the problem.

Discouragement of BCLC Proposals to Enhance Anti–Money Laundering Efforts

In light of this conclusion, I believe that it is necessary to briefly comment on the evidence before the Commission that, as Dr. German's review was ongoing, Mr. Eby encouraged BCLC to consult with Dr. German prior to taking action to enhance its anti–

614 Evidence of D. Eby, Transcript, April 26, 2021, p 31; Exhibit 905, BCLC Briefing (July 31, 2017).

615 Evidence of D. Eby, Transcript, April 26, 2021, p 31.

616 Ibid, pp 69–71.

617 Ibid, pp 44–45, 51–53, 58–60, 65–66.

618 Ibid, pp 44–45, 51–53, 58–60, 65–66.

619 Exhibit 832, *Dirty Money 1*, p 247.

620 Exhibit 505, Lightbody #1, paras 258–60; Evidence of D. Eby, Transcript, April 26, 2021, pp 55–56.

621 Exhibit 78, Beeksma #1, para 82; Evidence of J. Lightbody, Transcript, January 28, 2021, pp 75–76; Exhibit 78, Kroeker #1, paras 222–29; Exhibit 505, Lightbody #1, para 261.

622 Exhibit 482, Cuglietta #1, exhibit A.

money laundering efforts.[623] As this encouragement ultimately resulted in some of these measures not being implemented, viewed in isolation, these events could be viewed as Mr. Eby inhibiting anti–money laundering reforms that would have accelerated the reduction in suspicious cash that occurred during this tenure. A proposal put forward by BCLC to impose a cap on the value of cash transactions, in particular, may have resulted in suspicious cash being turned away that was otherwise accepted.

As discussed in Chapter 12, however, in the context of Dr. German's ongoing review, it was entirely sensible for Mr. Eby to encourage BCLC to consult with Dr. German prior to implementing any new anti–money laundering measures. Mr. Eby had retained an expert to evaluate money laundering in the industry and make recommendations to enhance efforts to combat it. In that context, it would not have made sense to make significant changes to the industry's anti–money laundering regime without coordinating or consulting with Dr. German.

Mr. Eby's request that BCLC consult with Dr. German regarding any such measures is akin, in my view, to the decision he made to seek external advice before acting. Mr. Eby could have taken action more quickly had he been concerned only with the appearance of doing so and was not interested in ensuring that he understood the circumstances confronting him and that any actions taken were appropriate. In the same way, BCLC's proposals, while satisfying the objective of taking action quickly, posed a risk of proving misguided or, at least, inconsistent with the direction proposed by Dr. German and as such it was sensible to obtain Dr. German's input before they were implemented. For this reason, I am unable to conclude that Mr. Eby's efforts to encourage BCLC to consult with Dr. German in any way contributed to the perpetuation of money laundering in the gaming industry. In my view, they were prudent and appropriate.

Conclusion

For the reasons outlined above, in my view, the actions of Mr. Coleman, Mr. de Jong, and Ms. Clark contributed, to some extent, to the growth and/or perpetuation of money laundering in British Columbia's gaming industry. I am unable to reach the same conclusion with respect to Ms. Bond and Mr. Eby.

In drawing these conclusions, I believe it important to emphasize again that identifying the actions of some of these elected officials as having contributed to this problem is in no way equivalent to a conclusion that they did so deliberately. As discussed at the outset of this section, there is no evidence capable of supporting a conclusion that any of these individuals engaged in any form of corruption with respect to matters within the mandate of the Commission. On the contrary, I accept that each was, at all times, motivated by their responsibility to work in the best interests of the province and its citizens. Some fell short in their efforts to do so, but I reject any suggestion that any were deliberately working contrary to the public interest.

623 Evidence of D. Eby, Transcript, April 26, 2021, pp 71–74; Exhibit 911, Email chain, re AG File No. 546040 (January 26, 2018); Exhibit 505, Lightbody #1, para 290–312.

I do not wish to be seen as counselling perfection, or otherwise establishing an unrealistically high standard of conduct for those who have taken on the responsibility of governance of the matters falling within the Commission's mandate, including elected officials, service providers, civil servants, or those in the role of law enforcement. It is necessary to exercise caution in attributing discredit or finding blame for decisions or actions that may have led to unintended consequences.

At the same time, however, it is important to not evade the tasks that I have been assigned in this Inquiry, which include "making findings of fact [about] the acts or omissions of regulatory authorities or individuals with powers, duties, or functions in respect of the sectors referred to in paragraph (a) or any other sector, to determine whether those acts or omissions have contributed to money laundering in British Columbia and whether those acts or omissions have amounted to corruption."

It is necessary to recognize the importance of making findings of the nature and extent of accountability, where, as here, there is powerful evidence that for a decade or more, criminal actors used a government-run and -regulated industry to their financial advantage. Those are circumstances that are manifestly certain to provoke widespread feelings of mistrust in those responsible for the gaming industry and for its governance.

To the extent that those best positioned to put a halt to the profligate criminal misuse of the gaming industry between 2008 and 2018 failed to take necessary action despite the clear warnings of many knowledgeable and well-intentioned people, this represents a significant failure of will at a time, and in circumstances, when it was most needed.