

COMMISSION OF INQUIRY INTO MONEY LAUNDERING IN BRITISH COLUMBIA

The Honourable Mr. Austin F. Cullen, Commissioner

AFFIDAVIT OF SUE BIRGE

I, Sue Birge of Victoria, British Columbia, Consultant, AFFIRM THAT:

1. I am a former employee of the Province of British Columbia in the Gaming Policy and Enforcement Branch (“GPEB”), a participant in the Commission of Inquiry into Money Laundering in British Columbia, and as such, I have personal knowledge of the facts and matters deposed to in this affidavit, save and except where based on information and belief, and where so stated, I believe it to be true.
2. I affirm this affidavit to provide evidence to the Commission pursuant to a summons issued to me under the *Public Inquiry Act*, S.B.C. 2007, c. 9.

Career in Public Service

3. I joined the British Columbia public service in 1997 as a senior policy and communications advisor in the Cabinet Policy and Communications Secretariat.
4. In the spring of 2000, I joined the Gaming Policy Secretariat as a senior policy advisor. When GPEB was formed in 2001, I was promoted to Director of Policy, Legislation and Standards and Deputy General Manager. Approximately five people reported to me in this role: an FOI coordinator, a problem gambling manager, a communications staff person, and two policy staff.
5. My role as Deputy General Manager until 2008 involved acting as General Manager when the General Manager was absent. There were no ongoing responsibilities attached to the role.

During periods when I was acting as GM, I continued to fulfill my responsibilities as Director of Policy, Legislation and Standards.

6. In 2008, all directors were reclassified as executive directors and my position was renamed Executive Director of the Policy, Legislation and Responsible Gambling Division. Although the name changed, my duties and responsibilities remained the same. Shortly thereafter, my portfolio expanded to include GPEB's finance and information technology departments and my title changed to Executive Director, Policy, Responsible Gambling and Business Services.
7. Following this reclassification, the Deputy General Manager role rotated among the executive directors of GPEB and as such I ceased to hold the title of Deputy General Manager on a permanent basis.
8. I was the acting Assistant Deputy Minister and General Manager of GPEB from approximately January to June 2011, following former Assistant Deputy Minister and General Manager Derek Sturko's departure from GPEB in December 2010. I had already communicated my plan to move to Toronto and did not intend to apply for this position on a permanent basis.
9. I left GPEB and the British Columbia public service in April 2012.

Legislative Drafting

10. I was involved in drafting the *Gaming Control Act* prior to its enactment in 2002.
11. Amendments to the *Gaming Control Act* during my tenure with GPEB were minor, including amendments in the late 2000s and an amendment in 2011 intended to facilitate the assignment of responsibility for gaming grants to another Ministry.

Role of Policy Division

12. The policy work undertaken by the policy division during my tenure focused primarily on issues relating to the prevention and treatment of problem gambling, gaming event licensing, and the grant program.
13. I do not recall writing about or researching policy issues pertaining to investigations, audit or registration, except in very general terms. The policy division completed branch service plans, annual reports, briefing notes, estimates notes, and communications materials related to those issues, but specific policy work relating to the enforcement side of GPEB's work was handled by the respective divisions.

Large and Suspicious Cash Transactions

14. In my role as Executive Director, I was part of the executive team, which met monthly. I was involved in discussions about the issue of large and suspicious cash transactions as part of the executive team; but I, along with most other directors, did not have subject matter expertise in this area.
15. During my time with GPEB, the work of the GPEB Investigations division was largely kept separate from the rest of the branch. Larry Vander Graaf was the Executive Director of the Investigations division during my tenure and Mr. Vander Graaf felt that the work of his division had to remain independent from the rest of the branch. He was reluctant to discuss investigations with me or other directors. Aside from the GPEB Cross-Divisional Working Group (which I discuss later), which started late in my tenure at the branch, there was limited information sharing between the Investigations division and the rest of the branch. While I was generally aware of the issue of large and suspicious cash transactions in casinos, and was involved in high-level discussions over time, I was not involved in directing solutions to this issue.
16. I do not recall being engaged in any specific policy work aimed at reducing suspicious cash in casinos during my time in the policy division. The Investigations division did not request policy division involvement in this issue and there was no relevant subject matter expertise within the policy division.
17. To my knowledge, discussion of these issues was largely between the Investigations division and BCLC with input from the Assistant Deputy Minister and senior BCLC staff.
18. Aside from involvement in the GPEB Cross-Divisional Working Group, the policy division was not asked to weigh in on policy issues related to investigations, suspicious cash, money laundering or loan sharking, except as they may have pertained to issues related to gambling addiction.
19. During my tenure, the policy division never considered limits on cash that a patron could bring into a casino at one time. The policy division was generally not apprised of the ongoing work of the Investigations division or actions stemming from that work.
20. I have reviewed the e-mail attached to Mr. Vander Graaf's Affidavit #1 at Exhibit U. This is an email from Larry Vander Graaf dated February 25, 2011 and addressed to Bill McCrean, Terri Van Sleuwen, Rick Saville and me. The email is a response to BCLC's review of its pilot

project pertaining to Patron Gaming Fund (“PGF”) accounts and their recommendations. It was my understanding at the time that one of the reasons PGF accounts had been implemented on a pilot basis was to enhance patron safety, but aside from general discussion at the executive table, this is not an issue that I had been working on prior to taking on the role of acting ADM.

21. I believe this response was solicited by Bill McCrea, Executive Director, Quality Assurance & Risk. There was a great deal of conversation internally within GPEB and with BCLC about how patron gaming funds should be managed. There was no clear consensus on this issue at that time.
22. In the email, Mr. Vander Graaf included a recommendation for a ministerial directive requiring that any casino patron using \$10 000 or \$20 000 in \$20s in a 24-hour period must deposit the funds in a Canadian financial institution. Typically, if a proposal such as a ministerial directive was elevated to the Minister’s office, there would be discussions at the executive level first and the Deputy Minister would be engaged. Stakeholders would also have been apprised or consulted, as well as the policy unit. This did not happen during my time at GPEB.
23. At the time of Mr. Vander Graaf’s email, I was aware that two independent reviews relating to anti-money laundering measures were in progress. Robert Kroeker had commenced his review of anti-money laundering measures in BC gaming facilities. Deloitte & Touche LLP had been retained by GPEB to conduct an independent review and assessment of BCLC’s AML and count-terrorist financing program. At that time, we were waiting for the final results of these reviews.

Connections Between Suspicious Cash and Responsible Gaming

24. My recollection is that the issue of money laundering in British Columbia casinos was initially identified as a problem with loan sharking.
25. I understood that issues relating to loan sharking at casino sites fell within the purview of the Investigations division of GPEB and BCLC. During my tenure, it was more of an enforcement issue than a policy issue.
26. The policy division was focused on loan sharking from a responsible gambling perspective – as a means by which players could access money. Loan sharking and money laundering were considered by the policy division to be two separate issues, although I learned through the Cross-Divisional Working Group experience that they were in fact closely connected.

27. There were also responsible gambling concerns related to cash alternatives. The issue was multi-faceted and discussions about cash alternatives went on for some time. Responsible gambling concerns focused on allowing cash machines in casinos that would enable players to access funds through credit cards on site. I sought to get people to think strategically about the implications of those decisions and the unintended consequences for vulnerable people.

Relationship with Investigations Division Leadership

28. The policy division was a central agency for GPEB that relied on other divisions to feed it the information it required for service plans, briefing notes, and communications.

29. My working relationship with Mr. Vander Graaf spanned over a decade, and while it was not always easy, it was professional and for the most part, cordial. At times it was a challenge for me to obtain information from Mr. Vander Graaf or Joe Schalk, Senior Director, Investigations Division. There were times when I addressed the issue with Mr. Sturko and Mr. Sturko ensured that the policy division was provided with the information it required from investigations. I perceived that Mr. Vander Graaf held Mr. Sturko in high regard and was willing to comply with his requests for the most part.

Response to Mr. Vander Graaf

30. I have reviewed paragraphs 82 to 86 of Mr. Vander Graaf's Affidavit #1 made November 8, 2020 ("Affidavit #1") and Exhibits X, Y and Z to that affidavit as well as Mr. Vander Graaf's Affidavit #2 made January 19, 2021 ("Affidavit #2") and I say the following in response.

31. With regard to paragraph 82 and Exhibit X of Affidavit #1, Mr. Vander Graaf acknowledges that he is mistaken about my involvement in providing feedback to BCLC regarding cash alternatives. I was no longer acting ADM at the time that this response was being drafted. I confirm that I did not request this feedback and do not recall being engaged in reviewing or approving GPEB's response to BCLC.

32. I was acting Assistant Deputy Minister at the time Mr. Vander Graaf sent the e-mail attached at Exhibit Y to Affidavit #1.

33. As a result of a Cabinet shuffle early in 2011, Shirley Bond became the newly appointed Solicitor General. It was my responsibility, along with the Deputy Minister, to brief her on the gaming file in general and to prepare her for the upcoming Estimates debate in the Legislature.

34. The Deputy Minister at the time was Lori Wanamaker. Ms. Wanamaker requested a Question and Answer (“Q&A”) document on money laundering in order to prepare the Solicitor General for the Estimates debate.
35. My priority at that moment was to work with my team to compile a large number of Estimates briefing notes and comply with the request from the Deputy Minister, all on a tight deadline.
36. Eugene Johnson, a policy person assigned to the Assistant Deputy Minister, and I developed a series of draft questions to which we needed answers in order to respond to Ms. Wanamaker’s request.
37. These questions were sent to Bill McCrea, Terri Van Sleuwen, Executive Director, Audit and Compliance, and Larry Vander Graaf for responses.
38. In response to the request, Mr. Vander Graaf did not answer the questions that had been posed and instead provided a response, as set out in an email dated April 8, 2011 (the “April 8 Email”). This email is attached as Exhibit Y to Affidavit #1 and is addressed to Eugene Johnson, Bill McCrea and Terri Van Sleuwen, with a copy to me. Unfortunately, this meant that we did not have a response that we required to prepare the Solicitor General.
39. I did not forward this email to the Deputy Minister, as it would not have been appropriate in the circumstances. The Deputy Minister had asked for a Q&A on money laundering. Action of the sort advocated for by Mr. Vander Graaf would have required discussion and coordination with many other stakeholders, including BCLC. I would have read his email and absorbed it but, in this circumstance, it would not have been appropriate to take what Mr. Vander Graaf had provided and turn it into an action plan at that time.
40. In regards to the anti-money laundering measures, it was my understanding that there was no consensus on solutions and the views expressed by Mr. Vander Graaf were not necessarily shared by everyone involved in the industry. This was a complex issue with many stakeholders, including law enforcement, BCLC, and casino operators. It was my understanding that a successful solution required a coordinated approach. I was also mindful that I held a placeholder position at that time as Acting General Manager, with a new ADM coming on imminently. The new ADM needed to be part of the discussion going forward, particularly in light of the recommendations set out by Mr. Kroeker in his report following his review of anti-money laundering measures in BC gaming facilities, the draft of which was completed in February 2011 (the “Kroeker Report”).

41. After Mr. Johnson received this response from Mr. Vander Graaf, he advised me that Mr. Vander Graaf was not complying with my request.
42. Mr. Vander Graaf's response came on the day of the deadline for the request. Given the immediacy of my deadline, I elected to address the matter directly with Mr. Vander Graaf. I called him and told him that his response was unacceptable and that his job was to put this material together as requested. I advised Mr. Vander Graaf that his email would not be sent to the Deputy Minister as it was not responsive to the request.
43. I have no recollection of telling Mr. Vander Graaf, or anyone, to delete the April 8 Email (or any email) and despite the hand-written note he produced and attached to Affidavit #2, I do not believe that I asked him to do so. I was responsible for FOI requests within the branch and was aware of the responsibilities we had to retain communications. The April 8 Email was not a private exchange between me and Mr. Vander Graaf. It had been received by three other individuals, all who would have had a record of the correspondence. It was also my understanding that the viewpoints expressed by Mr. Vander Graaf in the April 8 email were not new. I was not concerned about the existence of this email generally or from a freedom of information perspective. I just wanted Mr. Vander Graaf to know that the email would not be forwarded as written and that I needed an immediate response for the Deputy Minister.

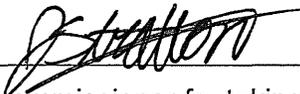
February 2011 Summary Review – Anti-Money Laundering Measures at BC Gaming Facilities

44. The Kroeker Report was completed during my tenure as Acting General Manager of GPEB.
45. With respect to the preparation of the summary review, Mr. Kroeker reported to the Deputy Minister, not to me.
46. My role with the review was soliciting feedback from the GPEB divisions and preparing briefing materials.
47. The report was not released until the summer of 2011, shortly after Doug Scott assumed the role of Assistant Deputy Minister and General Manager of GPEB.
48. I have no recollection of seeing the feedback that Mr. Vander Graaf provided to Mr. Kroeker and which is attached to his Affidavit #1 at Exhibit V. The face of the email shows that I was not copied on Mr. Vander Graaf's email to Mr. Kroeker. The process would normally require

that Mr. Vander Graaf share this feedback with me as acting ADM, but it would not have been unusual for Mr. Vander Graaf to provide it directly to Mr. Kroeker.

Involvement in Cross-Divisional Working Group

- 49. I was a member of GPEB's Cross-Divisional Working Group, which was established in September 2011.
- 50. The purpose of the Cross-Divisional Working Group was to identify initiatives that could be put in place to reduce suspicious cash in casinos. The members of the group took different aspects of the recommendations made by Mr. Kroeker in his report, as well as initiatives identified internally, and conducted research and spoke with their counterparts in other jurisdictions.
- 51. The group did a lot of information-gathering, discussed options and approaches, and liaised with the British Columbia Lottery Corporation and other stakeholders.
- 52. This work was ongoing when I left the branch in spring of 2012.

AFFIRMED BEFORE ME at)
Victoria, British Columbia, this 1st day of)
February, 2021.)
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A commissioner for taking affidavits for)
British Columbia)



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