

AML STRATEGY – Has it worked?

Talking Points – Len Meilleur – Executive Director

- Refer to the two last two slides in binder from our last session?
- Move to CONCLUSION OF PRESENTATION - PART II: Set the context as we move to conclusion by informing the Minister about GPEB'S knowledge with and understanding as a regulator of administrative fairness and natural justice experience and the notion of a right to be heard, by someone unbiased and to ensure the impacted party is supplied the facts. State that this is how all of our work is framed. Backed by facts, evidence.
- **Second Slide (challenges):** Explain what my default position has been when/if challenged. It is to advise leadership to review and rely upon evidence, being the spreadsheets, ongoing data, audits, investigations, surveillance, and videos of behaviour which will determine that our position of concern has credence. Our Branch has a mandate to protect the integrity of gaming, in my view that means representing both government and the public interest. In mitigating AML risk GPEB staff has strategized the risk, by honest assessment and isolation, where we acknowledge anyone who may have any potential for bias, ethical or otherwise. We provide our assessments of the raw data, STR reports from FINTRAC, and information from recent police investigations and from civil forfeiture. The intent of GPEB has never been to create tension with BCLC, or the service providers, but the facts are real. BCLC and the key service providers have been resistant in adapting their thinking and their actions speak to ignoring the guidance provided by MNP, GPEB, police, meaning assessing and where necessary refusing cash at time of transaction.
- **Third Slide (stairway) Explain it – Dog on a bone.**
- Our assessment of AML has always been in accordance with industry professionals, consultants and banks, research through MNP, Malysh and Associates, Dr. P. German. (Tabs "A" Malysh and "B" Peter German in Binder) They agree with what we have been doing and continue to emphasize as what is needed to be done is consistent with industry

standards around AML practices, KYC and source of funds.

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- Fourth slide (challenges continued) read note on slide then continue
- Talk about the reasonable person test and public perception. In this thinking we ask what would the ordinary public servant or public determine?

i.e. 2015 St-Cloud Decision: The reasonable person test and the administration of justice:

This is where reasonableness comes into play – in particular, in this case the justice's view of what "reasonable members of the community who are properly informed about 'the philosophy of the legislative provisions, *Charter* values and the actual circumstances of the case'" would think about the issue before them.

So what is BCLC and its service providers saying publicly about the issue? When speaking to the media such as the following article of August 10th, 2015 from then VP of GCGC. (Tab "C" in binder)

This statement I suggest is in conflict with Mr. Kroeker's opinion in the 2011 White Paper (Tab "D" in binder") he authored where he states, ***"Drawing the conclusion that a large cash transaction involves funds from legitimate sources based only upon patron identification and playing history is not consistent with best anti-money laundering practices. Conclusions and statements as to the ultimate legitimacy of cash should only be made where there is detailed, independent information verifying the source of the funds and should only be made by the enforcement agencies with a mandate to conduct these types of inquiries."***

- My concern Minister is that even after the recent June 13 announcement of a successful investigation BCLC asked to meet with police where they questioned the essence of and methodology of the police work leading to the arrests and insisted that BCLC had been 'victimized' by organized crime and provided their analogy as to why they did not believe the events described as money laundering. As a senior leader in government I am dismayed by that and continue to be so, in fact I find it

reckless. (Maple Leaf Foods, Volkswagen analogy). No business is immune from risk; it is how you mitigate those risks, how you acknowledge them and how you work with partners to address them.

- GPEB has stated that publicly in the media (Tab "E" in binder). I had hoped that BCLC would have voluntarily acknowledged that although they have been doing work to prevent casinos from being vulnerable, evidence of their data and ongoing investigations indicates they are vulnerable and is why they should have sought help from the regulator and police, some years ago. During my tenure on this file I have heard no admission of responsibility for any of the weaknesses in their system having ever been made to GPEB, Police or Gov. What I hear is "gold standard FINTRAC reporting", first in class as a compliance regime, doing it better than other jurisdictions, that is what I hear. Failing to acknowledge GPEB's role as evidenced in their slide to you during their briefing first briefing in Vancouver is reckless in my opinion. They need us as we need them, even though we have different goals and objectives. However I have concluded that they hold GPEB, and in particular the ED of Compliance and the ED of Strategic Policy and Projects in great disdain. Why, we are doing are jobs!

- Recently on Aug 11th, a Federal Court of Canada Consent Order was announced where the administrative fine levied by FINTRAC against BCLC was settled. (TAB "F") The posted BCLC Info Bulletin stated, "At no time did any money laundering transactions occur." How is that qualified, as it is inaccurate? In 2010 suspicious cash transactions were a regular topic of discussion. It has been a bone of contention and continued topic between all three recent VP's of BCLC Corporate Security and GPEB Enforcement and Compliance, in fact since 2007. There are vast amounts of internal correspondence over the years to demonstrate the difference of opinion, but the facts and expertise contradict the positions, the actions and the results. More importantly the experts in AML will acknowledge that in any predominately cash environment there will always be risk for money laundering or proceeds of crime. The media has a salacious interest in this issue. Mention recent "defined" FOI by Media asking for material from CEO Lightbody and VP Kroeker.

- (Tab "G") Adding to this overall concern of cash entering casinos, and what it was being used for, I wish to speak about the Chip Swap Liability in Sept 2015 in the amount of \$7,995,000. The liability was in part a result of cash buy-ins and then those chips going off-site and being used to pay off gambling debt, used in illegal gaming houses and returned to casinos. It

was an evidence of a lack of controls. I don't know what the current chip liability is, if any.

- Minister when adding up the evidence I have repeatedly asked my staff, how is it that BCLC can consistently deny any level of ongoing vulnerability in AML. Acknowledging that there are in fact money laundering and proceeds issues which exist, they are real and ongoing. Their leadership, I suggest, would be better positioned by acknowledging that it exists, as it exists in many facets of society that deal with cash. Their marketing plan could have stated we minimize any risk by doing x- which is knowing our customer, y- which is challenging the source of funds, and z- referring any concern to GPEB and working with GPEB and the police who play a role in helping us address any vulnerability. Internally BCLC front-line staff believes they should be doing more and I can qualify that by the following:

- Project Sienna. We have employed former BCLC staff who talk about a project they were planning to undertake at the River Rock due to the increase of STR's particularly in July 2015 and focusing on one particular player. They indicate the operator became aware of this and pressured BCLC not to proceed.
- Tab "H" in binder. Close with my statement about the embargoed copy of an internal BCLC memo to VP Corporate Security and Compliance. Read the 7 Recommendations and Summary. Conclude with my observation that BCLC knew they had a problem, could have done more in taking some corrective action, but they chose only to convince government that they are doing many progressive things, meeting the benchmarks. They chose to include GPEB as their regulator as a sake of convenience, usually after a crisis/media. The evidence I suggest clearly demonstrates they have failed to go the necessary distance in making changes that are sustained and impactful. Why not?

It is speculation on my part to some degree, augmented with some personal knowledge and fact, that BCLC has had financial targets and pressure exerted on them from the MOF and Treasury Board. Gambling revenue is significant and the standard message is it supports many programs. Understood, but at what cost, and being a regulator tasked with the overall integrity of gaming I am conflicted with taking the revenue and trying to balance "integrity in gaming". Their VP Corporate Security and Compliance has stated to me on more than one occasion that if they are to

screen the transactions at the same level as banks and other accredited money service businesses, revenue would be severely impacted. I am very aware of the demands on government for programs and that it takes dollars to do so. However as I previously mentioned to you, I have never been provided an opportunity to present the history of this file to a Minister in detail. I did make an effort to stress a sense of urgency about continued AML concerns in briefings to the former OADM and DM on trends, believing that certain actions could bring balanced results to the portfolio. The former DM on one occasion had a different perspective than I did on the issue of suspicious cash and as to how it should be portrayed in a briefing to the former Minister. In one particular instance the ADM and I were informed that a briefing slide should depict a better picture about the revenue being up and not a focus on the story of SCT's being up or down.

Fifth slide. Read foot note then comment that analysts and GPEB staff are of the opinion that revenue has been King in their opinion when you measure the # of STR' s before action is taken and someone is removed from unsourced cash or prohibited from gambling due to their use of unsourced cash.

Sixth slide and then 7th slide. Read footnotes.

The actions suggested for consideration are as follows (**Slide 8 Other Possible Actions**):

1. Consideration given to Section 97 (2.1) amendment to include BCLC. (Reporting under Section 86 Act and 34 Regulation) have been essential to regulatory success as explained deters the Province being left in the dark). Example of importance, refer to slide on Top 90 players and what would occur if we didn't have access or reporting. Report and slide on PGF band drafts. For your information the Ontario regulator has five words in their legislation "This Act binds the Crown."
2. Application of additional KYC/SOF standards at the time of transaction. What occurs now, what should occur, with the understanding that there will be push-back on impact. [revenue]

More stringent at time of transaction standards could be a pilot in one facility, based on the FINTRAC definition of a business relationship, meaning 2 SCT's and then a mandatory assessment of the patron. The assessment at the time of transaction, by an independent time of transaction assessment manager, could be used to move patrons earlier from cash or use of illicit monetary instruments such as bank drafts. This needs to be done by person(s) other than operator staff. State: When an employee is filing out a source of funds questionnaire, knowing that someone will be tipping them \$1,000 or more to go to the Salon Privee, there is a conflict (Source: Ex BCLC employees now GPEB staff). As BCLC repeatedly states reporting to FINTRAC is keystone to their program it should be noted that it in isolation is not the panacea. In the MNP Report on Page 10, Recommendation 4.7 states, "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 threshold amount should not be the concern, the reporting and activity (behaviour) (indicia) should be what is relied upon regardless of the patron's status and across the spectrum. In MNP recommendation 4.14 the Know Your Patron (KYP) framework at the River Rock is a task-driven compliance activity rather than a risk management activity. Our failure to examine the clientele in more detail is concerning as we are now identifying the risk moving from cash to PGF based on evidence and observations of police and GPEB staff. A shift is now occurring as criminals will find ways of helping those in need of gaming cash to access it and conform to the policies of the day, i.e. PGF vs non-cash. Please refer to Tab "J" report.

3. GPEB audit of service provider training standards and testing of that knowledge through interviews of staff. Expect BCLC objection.
4. Implementation of the Transaction Assessment Team (TAT).
5. After the Minister has absorbed, assessed, these briefings and information provided, we would like to make recommendations for further direction. This will be based on the Ministers feedback, as to your expectations around roles and responsibilities and as to how you wish GPEB to define government's role in AML. Rhetorically, what you envision BCLC doing and what GPEB Compliance and Policy should be doing, including long-term solutions for *information being provided and timely reporting*. The question I continue to ponder is as to what the Minister believes GPEB's role needs to be in AML? BCLC for the most part believes we have no role.

Why is further clarity necessary? A prolonged issue of scope creep, tension in the relationship, duplicity of duties, power struggle for resources and BCLC's appetite for stature in the enforcement community and overall gambling sector. Use the example of BCLC covert operation in July 2016 involving staff attending MSB's, intelligence gathering and reporting to police not GPEB i.e. Sidaway Civil Forfeiture. BCLC has built intelligence unit, analyst, SAS (Tab "I"), Information Sharing Agreement, all modeling enforcement. They have been the voice of AML for Province of BC, through White Papers, press releases, BC Gaming Industry Association, forums, and periodicals. Is their role not about implementing policy, procedures, training and ensuring the conduct and management of that? My Air Canada experience tells me so. We submit that their role should be restricted to corporate security and compliance which involves implementing policy and guidelines for their contracted service providers, and other defined responsibilities such as reporting to FINTRAC. Reporting to FINTRAC yes, but should the compliance piece, meaning work that is related to enforcement or statutory obligation, needs to rest with the regulator? BCLC has a role to

provide information to support GPEB and police where necessary. We wish to be provided some updated clarity on the role that GPEB shall play in the oversight of BCLC, as government's representative in managing any strategy that is to be undertaken by government through the Crown Corporation. GPEB is the regulator and its investigators are Special Provincial Constables with authority under the Police Act. Their role is clear in the Act. BCLC exists on behalf for a different role, example monitoring compliance of its agents.

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