

**Commission of Inquiry into
Money Laundering in British Columbia**

Public Hearing

Commissioner

The Honourable Justice
Austin Cullen

Held at:

Room 801
Federal Courthouse
701 West Georgia Street
Vancouver, B.C.

Monday, February 24, 2020

APPEARANCES

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Jacqueline Hughes Chantelle Rajotte	B.C. (Ministry of Finance and GPEB)
Judith Hoffman Hanna Davis	Canada
Ludmila Herbst, QC	Law Society of B.C.
Jitesh Mistry Stephanie Smith Danielle Marchand	BCGEU
Bill Smart, QC Shannon Ramsay	BCLC
Mark Swkarok Melanie Harmer	Great Canadian Gaming Corporation
Robin N. McFee Maya Ollek	James Lightbody
Christine Mainville	Robert Kroeker
Ron Usher John Mayr	Society of Notaries Public of B.C.
Morgan Camley	BMW
Patrick Weafer	B.C. Real Estate Association
Megan Tweedie Emily Lapper	BCCLA
JoAnne Stark	CBA/CDAS

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1
Introductions

Vancouver, B.C.
February 24, 2020

1
2
3
4 THE REGISTRAR: All rise. The Cullen Commission
5 hearings have now commenced.

6 THE COMMISSIONER: Yes, Mr. Martland.

7 MR. MARTLAND: Mr. Commissioner, it's Brock Martland,
8 M-a-r-t-l-a-n-d, and I'm one of the Commission
9 counsel. With me are Patrick McGowan, M-c-g-o-w-
10 a-n, and Steven Davis, D-a-v-i-s.

11 I'm going to ask, although it may be a
12 little unwieldy to try to do this, rather than
13 having everyone come up to the mike but simply
14 for the benefit of your knowing who's who in the
15 room, to ask the participants to -- if we can try
16 and move around the room this way, and then the
17 second row, and counsel can identify themselves.
18 And then I have a few opening remarks.

19 THE COMMISSIONER: All right. Thank you.

20 MR. MCGOWAN: Patrick McGowan.

21 MR. DAVIS: Steven Davis.

22 THE COMMISSIONER: Thank you.

23 MS. TWEEDIE: Megan Tweedie.

24 THE COMMISSIONER: Thank you, Ms. Tweedie.

25 MS. LAPPER: Emily Lapper.

26 THE COMMISSIONER: Ms. Lapper.

27 MS. HUGHES: Commissioner Cullen, Jacqueline Hughes,
28 appearing on behalf of the Gaming Policy
29 Enforcement Branch and the Ministry of Finance,
30 and with me is Ms. Chantelle Rajotte.

31 THE COMMISSIONER: Thank you, Ms. Hughes.

32 MS. CAMLEY: Morgan Camley, counsel for BMW.

33 THE COMMISSIONER: Thank you.

34 MR. USHER: Good morning. Ron Usher, general counsel
35 for the Society of Notaries Public of B.C.

36 THE COMMISSIONER: Thank you, Mr. Usher.

37 MS. HOFFMAN: Commissioner, Judith Hoffman for the
38 Government of Canada, and with me is Hanna Davis.

39 THE COMMISSIONER: Thank you, Ms. Hoffman, Ms. Davis.

40 MS. STARK: Jo-Anne Stark, Canadian Bar Association.

41 THE COMMISSIONER: Thank you.

42 MR. WESTELL: Kevin Westell, Criminal Defence Advocacy
43 Society.

44 THE COMMISSIONER: Thank you, Mr. Westell.

45 MR. MISTRY: Jitesh Mistry, M-i-s-t-r-y, general
46 counsel for the B.C. Government Service
47 Employees' Union.

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1 THE COMMISSIONER: Thank you.

2 MS. HERBST: Ludmila Herbst, counsel for the Law
3 Society of British Columbia.

4 THE COMMISSIONER: Thank you.

5 MR. SMART: William Smart along with Shannon Ramsay,
6 who's in the public gallery on the far left. We
7 appear for the B.C. Lottery Corporation.

8 THE COMMISSIONER: We'll try and secure another chair
9 for you, Mr. Smart. Thank you.

10 MR. MCFEE: Robin McFee, and with me is Maya Ollek,
11 O-l-l-e-k, and we appear for Jim Lightbody.

12 THE COMMISSIONER: Thank you, Mr. McFee.

13 MR. SKWAROK: My name is Mark Skwarok, S-k-w-a-r-o-k,
14 and with me is Ms. Melanie Harmer, on behalf of
15 Great Canadian Gaming Corporation.

16 THE COMMISSIONER: Thank you, Mr. Skwarok, Ms. Harmer.

17 MR. WEAVER: Patrick Weaver, counsel for the B.C. Real
18 Estate Association.

19 THE COMMISSIONER: Thank you. All right, thank you.
20 I think that is a fairly full slate of
21 introductions.

22 Mr. Martland, I don't propose to make any
23 opening statement to initiate this proceeding, as
24 I did provide an overview of the nature and scope
25 of the Commission's mandate and about the
26 Commission itself at the hearing which took place
27 on October 18th of 2019 in connection with
28 certain applications for participant status.
29 Those opening remarks have been transcribed and
30 they are posted on the Commission's website for
31 anyone who wishes to refer to them.

32 But before we proceed, I understand that you
33 will be making a few remarks to put this
34 particular portion of the inquiry's hearings into
35 context and to explain what you expect to unfold
36 over the next few days.

37 MR. MARTLAND: Yes. Thank you, Mr. Commissioner. And
38 we're here to conduct a phase of our public
39 hearings in which the participants, which is to
40 say those granted standing as parties in the
41 hearing process, are given the opportunity to
42 make their opening statements.

43 We'd actually reserved a week for this, not
44 sure of how long this would all take. Our best
45 sense right now is that we'll be able to conclude
46 this phase of the hearings within three days. We
47 should be done on Wednesday.

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1 What we've done, Mr. Commissioner, is to
2 invite the participants to address you and to set
3 out the topics and issues that they would like to
4 highlight and ask the Commission to focus on.
5 Some may also have comments or perspectives with
6 respect to what lines of inquiry are or are not
7 worth pursuing.

8 Our hope is that this will be a fruitful way
9 to gain an understanding of the specific concerns
10 that the participants have and also the positions
11 taken by those participants.

12 I should add that not all participants have
13 been granted standing on all topics, and so it
14 may be the case that some participants are
15 focusing their opening statements on particular
16 issues that they were granted standing on as a
17 result of that.

18 There's a few comments that I'd like to
19 repeat, really repeating comments that have been
20 made in other contexts for the benefit of people
21 who are viewing this today, whether here in
22 person or through the live stream on the webcast.

23 First, our inquiry is independent. The
24 provincial government called this inquiry and set
25 the terms of reference, but we are completely
26 independent of the provincial, indeed of any,
27 governments or government agencies.

28 Secondly, we have a mandate that is set out
29 in our terms of reference. In the fall of last
30 year, Mr. Commissioner, you conducted public
31 meetings in five different communities around the
32 province in order to obtain input from the public
33 about money laundering and about the issues that
34 British Columbians wish to see us address.

35 Offstage, the Commission team has been busy
36 conducting our own investigations, research,
37 interviewing and meeting with witnesses and
38 experts, obtaining and reading documents and
39 studying the myriad issues that arise under our
40 terms of reference. And we do approach all of
41 that work guided by the terms of reference. That
42 is what gives us our mandate and really defines
43 the collective task for everyone here.

44 Today our plan is to continue in that
45 process, inviting the participants to formally
46 and publicly address you with their perspective
47 as to what they wish to see the Commission

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1 address and to outline their views about issues
2 they feel are important.

3 And although I'm giving these few opening
4 comments now, Commission counsel have determined
5 not to give an opening statement. That's a
6 deliberate decision, explained by the fact that
7 we're immersed in our own preparatory work and
8 investigations. But we simply don't have any
9 fixed view of where the evidence will take us,
10 and we have some concern that leaping ahead to
11 any sort of opening statement would be premature
12 in terms of taking any position on issues where
13 we haven't led evidence or had it tested through
14 hearings.

15 There's a few practical things I'd like to
16 simply convey, Mr. Commissioner, both to you and
17 the participants and people in attendance or
18 viewing. And so one of them is what I'll call
19 the batting order. We don't have a fixed
20 schedule where we have specific start times for
21 each and every participant. What we've done is
22 to give an allocation of a maximum period of time
23 for all the participants. Both the Province of
24 B.C. and Canada have been given 90-minute
25 allocations, and then 45 minutes for all other
26 participants. And we simply don't know -- I
27 don't expect everyone will run us right to the
28 44-minute mark. And so we have a sequence but
29 not actually a schedule of fixed times with one
30 or two exceptions.

31 The order of the participants addressing the
32 Commission is listed on our website, and to
33 simply run through that list quickly, I'll give
34 you the batting order. We start with the
35 Province of British Columbia and then Canada. My
36 sense would be those two participants would run
37 us 'til midday today and perhaps somewhat into
38 the afternoon. Then the Law Society; the B.C.
39 Government Employees' Union; BCLC, which is the
40 British Columbia Lottery Corporation; Great
41 Canadian Gaming Corporation; James Lightbody;
42 Robert Kroeker; Gateway Casinos; Canadian Gaming
43 Association; the Society of Notaries Public; BMW;
44 the Transparency International Canada Coalition;
45 B.C. Real Estate Association; and the B.C. Civil
46 Liberties Association; the Canadian Bar
47 Association; and the Criminal Defence Advocacy

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1 Society.

2 We may have some shuffling within that
3 batting order to adjust for a few speakers who
4 have to be here for specific times because of
5 other court commitments and the like.

6 We will be convening these hearings from
7 9:30 to four o'clock, and taking a break for
8 lunch between 12:30 and 1:30. We encourage and
9 appreciate participants and counsel attending in
10 good time before 1:30 to ensure everyone clears
11 security in time. I am told that people who have
12 been cleared through security, so long as they
13 remain on this floor of the building, won't need
14 to clear security a second time, for instance for
15 a washroom break.

16 On that note, when we do take breaks, my
17 understanding is that people can leave out of the
18 courtroom through two sets of doors at the back
19 as well as the side. I feel like I'm doing an
20 airplane announcement and telling people the exit
21 routes. But when people come back in, they need
22 to return through the rear door where the
23 security screening is set up.

24 One of the rules of the Federal Court
25 facility is no coffee or other drinks or food.
26 Only water is permitted here.

27 The participants and their lawyers may
28 already have been told about this, but we have a
29 sign-in sheet process and we ask everyone to
30 please make a point to sign in every day they're
31 in attendance. That's not us trying to be
32 babysitters or school teachers taking attendance,
33 but rather for the benefit of transcription,
34 ensuring we've got a good record of who was in
35 attendance on particular dates.

36 The transcripts will be made available for
37 these hearings in a few weeks' time on our
38 website.

39 In addition to taking a break over the lunch
40 hour, I understand the plan is that we would take
41 a brief recess roughly halfway through the
42 morning as well as again through the afternoon
43 blocks of time.

44 Our suggestion is that if anyone needs to
45 leave the room during the hearings, whether
46 that's members of the public or participants or
47 lawyers, they may simply do so quietly, without

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1 needing to wait for an intermission or a break.
2 And whereas counsel would often seek leave to
3 absent themselves, we suggest that need not be
4 required in the context of this many lawyers in
5 this setting.

6 There are some photographers that are here
7 today for the start of these hearings. We had
8 likewise previously allowed for some media
9 photographers to attend our very first hearing
10 dealing with standing. Because this is our first
11 hearing in this spacious federal court facility,
12 we wanted to provide a similar short opportunity
13 at the outset, but after I've finished these few
14 introductory comments, Mr. Commissioner, the plan
15 is we would stand down for maybe two minutes and
16 then request that everyone please put away
17 cameras, and if any media photographers wish to
18 leave at that point, that's an opportune time to
19 do that.

20 And at that point, after photographers have
21 left in a few minutes from now, I should say
22 that's not the end of all filming so to speak.
23 There are cameras that are mounted on the ceiling
24 in this room that will display counsel and the
25 Commissioner and indeed show into the area of
26 counsel and the gallery. So I wanted people to
27 know that, and those camera and the lights that
28 go with them permit us to livestream the hearings
29 on our website. The hearings, as I understand,
30 will also be available on a number of media
31 websites. That's been organized through an
32 arrangement that's been put in place by Global
33 TV, and we're grateful for Global's assistance
34 with that.

35 Any media who wish to follow up on the
36 livestream or any aspect of this should speak
37 with out communications director, Ruth Atherley,
38 who is present today.

39 Another point is that these microphones --
40 first, they don't have an on/off button. I think
41 the old mikes in this room did, but there's no
42 need to toggle on or off as one speaks at the
43 podium. The microphones may well be running
44 during court breaks or before court, and so that
45 even if it seems empty in the room, it could be
46 that one's remarks are picked up and sent out
47 through the web. There's a story about Dick

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1 Cheney and George Bush saying unfortunate things
2 about a New York Times reporter without realizing
3 that the mikes were running. I trust no one here
4 will fall into that mistake.

5 The other comment is that the microphones
6 don't amplify within this area for counsel. They
7 do amplify for the back of the room. So we'll
8 ask counsel to speak loudly if they can so that
9 they're heard by everyone up front.

10 The other comment is that this -- we're
11 going to ask all participants, Mr. Commissioner,
12 to address you for these hearings, from this
13 podium as opposed to other ones. We expect that
14 might well be varied once we're into witnesses in
15 the full hearings, but we'll ask people to come
16 to this podium.

17 So with those comments made, Mr.
18 Commissioner, subject to any other issues to
19 address, I'll suggest we might stand down for two
20 minutes and then we can convene and begin with
21 opening statements from B.C.

22 THE COMMISSIONER: All right. Thank you. We will
23 stand down for a brief recess.

24
25 (PROCEEDINGS ADJOURNED)

26 (PROCEEDINGS RECONVENED)

27
28 OPENING STATEMENT BY MS. HUGHES (GPEB AND MINISTRY OF
29 FINANCE, BRITISH COLUMBIA):

30
31 THE COMMISSIONER: Yes, Ms. Hughes.

32 MS. HUGHES: Thank you, Mr. Commissioner. I am here on
33 behalf of the Province and specifically the
34 participant, the Gaming Policy Enforcement Branch
35 that I'll refer to as GPEB, and also the Ministry
36 of Finance.

37 Money laundering is not a victimless crime.
38 As we have experienced over the past decade,
39 money laundering has had, and, absent action, on
40 the part of all stakeholders, will continue to
41 have a significant impact on the lives of
42 ordinary British Columbians. Money laundering
43 has distorted B.C.'s economy, fuelled the
44 overdose crisis, and driven up housing prices.

45 The accounts of millions of dollars flowing
46 through B.C. casinos by way of hockey bags filled
47 with \$20 bills are now well known, as is the

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1 "Vancouver Model." The Lower Mainland has
2 unfortunately earned an international reputation
3 as a haven for money laundering. This did not
4 happen overnight or without warning signs. The
5 past cannot be undone, but what government can do
6 going forward is learn from the past and take
7 proactive steps to make British Columbia the most
8 difficult jurisdiction in which to launder money.

9 British Columbians deserve to know how money
10 laundering was allowed to proliferate, who the
11 key players are, and the true scope of the
12 problem. What role did bureaucracy and lack of
13 communication or coordination between
14 stakeholders play? Was there wilful blindness to
15 what was going on in favour of income generated
16 for public or private purses? Are there
17 legislative barriers that prevent prosecution of
18 money launderers? And most importantly, what is
19 the true extent of money laundering in the
20 province and what steps can we take to stop it?

21 The reviews by Dr. Peter German and the
22 Expert Panel on Money Laundering in Real Estate
23 provide a starting point and have highlighted for
24 government and for all British Columbians that
25 money laundering is a significant challenge
26 facing our province today. The work done by
27 these experts has shown that money laundering is
28 not limited to any particular segment of our
29 economy and that we must respond to this
30 challenge with a coordinated and integrated
31 approach that spans across the various sectors
32 and industries.

33 Government recognizes the need for immediate
34 action and has already taken significant steps to
35 combat money laundering on multiple fronts,
36 including by banning unsourced bulk cash
37 transactions in casinos and creating a new
38 landowner beneficial ownership registry. As
39 these initial steps show, government is willing
40 to make the difficult decisions necessary to
41 disrupt money laundering in our province for the
42 long-term benefit of all British Columbians.

43 Yet there is still much work left to be
44 done. Implementing effective practices and
45 procedures to combat money laundering is a
46 pressing issue and one in respect of which
47 government welcomes the Commission's work,

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1 findings, and eventual recommendations. The
2 factors that allowed money laundering to flourish
3 in B.C. over the past decade are complex and will
4 take time to address, but government is committed
5 to moving forward with the necessary
6 comprehensive reforms required to ensure that
7 past mistakes are not repeated.

8 The Commission's broad mandate and
9 independence from government will ensure that it
10 can do the difficult work necessary free of
11 political, partisan or economic influences. In
12 this regard, government appreciates the balance
13 that the Commission will need to find in doing
14 its work without interference in criminal
15 investigations, and is confident that the
16 Commission will pursue all lines of inquiry. As
17 you noted, Mr. Commissioner, the Commission's
18 full allegiance must be to the people of British
19 Columbia and not to any other interest, priority
20 or agenda.

21 Government strongly supports the
22 Commission's work and welcomes the opportunity to
23 engage with the Commission through its process.
24 Government is committed to full participation in
25 this inquiry, both through the Ministry of
26 Finance and the GPEB as participants, and also by
27 way of facilitating the Commission's access to
28 documents and the attendance of government
29 employee as witnesses from across all ministries.

30 Much can and will be learned from the past
31 over the course of this inquiry, but the focus of
32 our submissions today will be to highlight the
33 steps government has already taken to combat
34 money laundering, with a particular focus on the
35 gambling and real estate sectors. And in doing
36 so, we hope to highlight for the Commission areas
37 in which it may wish to focus its work going
38 forward.

39 THE COMMISSIONER: Ms. Hughes, you mentioned in your
40 opening remarks the issue of the true extent of
41 money laundering in the province and what steps
42 can be taken to abate it or stop it. Does the
43 Province have a position on quantification? That
44 is, is there some means by which you think the
45 Commission can usefully focus on the amount of
46 money that, on an annual basis, is laundered
47 through various economic sectors in British

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1 Columbia?

2 MS. HUGHES: Well, I believe, Mr. Commissioner, the
3 work done by the Expert Panel on Money Laundering
4 in Real Estate and also Dr. German's work
5 provides a starting point, and government
6 continues to assess that factor and looks to the
7 Commission as well in its work to assist in the
8 quantification issue. Certainly it appears, as
9 we've seen, that the issue does transcend
10 multiple different sectors, and the work done
11 provides a starting point that we look to build
12 off of.

13 THE COMMISSIONER: I think we'll be hearing evidence
14 that it's a pretty elusive issue and one that's
15 difficult to bring down to the ground. But
16 certainly anything that the Province can do to
17 assist the Commission in grappling with that
18 issue would be of great benefit, I think.

19 MS. HUGHES: Certainly, Mr. Commissioner.

20 THE COMMISSIONER: All right.

21 MS. HUGHES: Turning, then, to the gambling or the
22 gaming sector, we've set out in paragraphs 10 and
23 onwards of our submission, the regulatory and
24 legislative framework that applies in the gaming
25 sector. And of course, GPEB as a participant is
26 an office of the provincial government under the
27 Ministry of Attorney General that is charged with
28 regulating all gambling in British Columbia.

29 Now, GPEB is directed by a general manager,
30 who is typically also an assistant deputy
31 minister, and that general manager has various
32 duties and responsibilities set out in the
33 legislative scheme, and we've articulated some of
34 those in paragraph 13 of the submission.

35 As the branch of government responsible for
36 B.C.'s provincial gambling policy, GPEB is also
37 responsible for providing advice to the minister
38 on gambling policy matters, for managing the
39 distribution and gaming proceeds to communities
40 and community organizations, and for delivering
41 on the province's Responsible and Problem
42 Gambling Program.

43 In order to perform these functions, GPEB is
44 broken down into various divisions, three of
45 which are particularly relevant to the
46 Commission's work, those being the Licensing,
47 Registration, and Certification Division, the

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1 Compliance Division, and the Enforcement
2 Division, each of which is led by an executive
3 director.

4 We've set out in paragraphs 17 and 18 an
5 overview of the Compliance and the Registration
6 and Certification Division. And then in
7 paragraph 19, we deal with the Enforcement
8 Division, which was created in late 2018 as part
9 of enhancing GPEB's enforcement capacity. And so
10 the Enforcement Division is charged with
11 enforcing provisions of the *Gaming Control Act*,
12 the regulations, and the *Criminal Code*. And it
13 works in this regard collaboratively with BCLC,
14 gaming service providers, so the casinos, and law
15 enforcement agencies.

16 Within the Enforcement Division there are
17 now two units: the Investigations Unit and the
18 Intelligence Unit. The Investigations Unit, as
19 its name suggests, investigates instances of
20 conduct, activity, or incidents incurring
21 occurring in connection with gambling that could
22 threaten the integrity of the industry, and that
23 includes money laundering.

24 The Intelligence Unit has a mandate of
25 providing timely and accurate intelligence to
26 gaming stakeholders and decision makers with a
27 mission of trying to enhance situational
28 awareness of any threats to the integrity of
29 gambling in the province. And in this regard,
30 there are six GPEB investigators and a manager
31 from the Enforcement Division that are embedded
32 with and work as part of the Joint Illegal Gaming
33 Investigation Team or JIGIT. And I'll come
34 back --

35 THE COMMISSIONER: Is this a function that sort of
36 parallels that of FINTRAC at the federal level?

37 MS. HUGHES: I don't believe it necessarily parallels
38 it. It's a combined unit, JIGIT is, to work
39 together to share information and the like.

40 THE COMMISSIONER: I was thinking more in terms of the
41 intelligence gathering.

42 MS. HUGHES: No. GPEB doesn't report to FINTRAC.

43 THE COMMISSIONER: No, I know that.

44 MS. HUGHES: Yeah.

45 THE COMMISSIONER: But I just wondered if it was sort
46 of a parallel kind of process.

47 MS. HUGHES: I don't know that I would describe it as

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1 a parallel process, but perhaps a complementary
2 one.

3 THE COMMISSIONER: Okay.

4 MS. HUGHES: We then set out in the following section
5 the relationship between GPEB and BCLC in terms
6 of gaming regulation. And GPEB's mandate
7 includes regulatory oversight of BCLC, which is a
8 Crown corporation controlled by the Province and
9 an agent of the Crown. And so under s. 7 of the
10 Act, BCLC is the entity responsible for the
11 conduct and management of commercial gaming on
12 behalf of government. And this includes not just
13 gaming at casinos but lotteries, bingo, and
14 online gambling. And so virtually all of the
15 commercial gaming in the province operates under
16 BCLC's control.

17 So BCLC and the general manager have
18 distinct roles under the *Gaming Control Act*. And
19 in turn, the Minister of Finance is BCLC's fiscal
20 agent, and the net income generated from BCLC is
21 delivered to the Province and then used, as I
22 indicated earlier, to fund health care,
23 education, charitable gaming, and community
24 programs and other essential services. And in
25 fiscal 2018-2019, commercial gambling returned
26 \$1.4 billion in revenue to government, of which
27 \$982 million was allocated to the consolidated
28 revenue fund to support government programs and
29 services; \$147.2 million was allocated to the
30 health special account, which funds health care
31 initiatives; and \$140 million was allocated to
32 non-profit community groups from Community Gaming
33 Grants.

34 Now, as the entity responsible for the
35 conduct and management of gambling in the
36 province, BCLC is the reporting entity to FINTRAC
37 Under the *Proceeds of Crime (Money Laundering)*
38 *and Terrorist Financing Act*. And so in British
39 Columbia it's BCLC that's obligated to report
40 under the *PCMLTFA*.

41 Now, the information that forms part of
42 unusual financial transactions or suspicious
43 transaction reports, that information is provided
44 to GPEB through reports made under s. 86 of the
45 *Gaming Control Act* and also s. 34 of the
46 Regulation. And so under that section, BCLC,
47 registrants and licensees are required to notify

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1 the general manager of any conduct or activity
2 connected to a lottery scheme or horse racing
3 that may involve the commission of an offence
4 under the *Criminal Code* and requires gaming
5 service providers to immediately report to the
6 general manager any conduct or activity at or
7 near a gaming facility that is or may be contrary
8 to the *Criminal Code*, the Act, or the Regulation.
9 So that's how we see the interplay in reporting
10 between FINTRAC, BCLC and GPEB.

11 Now, in September of 2017, after learning of
12 transactions that suggested B.C. casinos were
13 being used to launder millions of dollars in
14 proceeds of crime, the Attorney General appointed
15 an independent expert, Dr. Peter German, to
16 conduct a review of money laundering in the
17 gambling industry, and GPEB supported Dr.
18 German's work.

19 In December of 2017, Dr. German made two
20 interim recommendations in the course of his
21 ongoing review. And those recommendations were,
22 first, that a mandatory requirement be imposed
23 requiring gaming service providers, so casino
24 operators, to complete a source of funds
25 declaration for cash deposits or bearer bonds of
26 \$10,000 or more and that that declaration must
27 include a customer's identification and provide
28 the source of their funds, including the specific
29 financial institution and account from which the
30 cash or bearer bond was sourced, and also that
31 GPEB increase its on-site presence at large, high
32 volume casino facilities in the Lower Mainland
33 with a GPEB investigator being on shift and
34 available on a 24/7 basis.

35 The next month, in January of 2018, a
36 mandatory source of funds declaration was
37 implemented requiring bank-level proof of cash
38 for buy-ins of \$10,000 or more in a 24-hour
39 period.

40 BCLC reports that this requirement has
41 already resulted in changes to player behaviour,
42 including a reduction in unsourced cash. And
43 implementation of mandatory source of funds
44 declarations has resulted in continued softness
45 in table gaming revenue.

46 Following implementation of the mandatory
47 source of funds declaration requirement, GPEB

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1 then conducted audits of three of the five
2 largest Lower Mainland casinos to assess service
3 provider compliance with the policy and identify
4 any issues that might impact efficacy, and any
5 concerns identified during these audits have been
6 addressed.

7 With respect to the second interim
8 recommendation, in order to increase its on-site
9 regulatory presence in accordance with Dr.
10 German's interim findings, GPEB has shifted
11 existing investigative resources and hired 12 new
12 investigators to be available during peak hours.
13 So that's 16 hours a day at the five high-volume
14 casinos in the Lower Mainland, namely River Rock,
15 Parq, Grand Villa, Hard Rock and Starlight.
16 Investigators are scheduled during peak times
17 based on a risk assessment of indicators of
18 suspicious activity. So while they're not there
19 24/7 as Dr. German recommended, they are now on
20 site during peak hours and those peak hours have
21 been chosen strategically based on a risk
22 assessment.

23 In June of 2018, Dr. German's final report
24 was released publicly and identified systemic
25 weaknesses that allowed the proliferation of
26 money laundering through predominantly the Lower
27 Mainland casinos. Specifically, Dr. German
28 concluded in his first report that for many years
29 the Lower Mainland casinos unwittingly served as
30 laundromats for the proceeds of organized crime
31 and that this problem grew over the years to the
32 point of overtaking the ability of the existing
33 legislative and regulatory framework to
34 effectively respond and curtail it.

35 Now, in his report, Dr. German made 48
36 recommendations for preventing money laundering.
37 Government has accepted in principle all of Dr.
38 German's recommendations and is working towards
39 implementing them. And that implementation is
40 being led by government but in coordination with
41 BCLC and other stakeholders. To date, 17 of Dr.
42 German's recommendations from the first report
43 have been addressed. And in this regard, one of
44 the means by which government intends to enhance
45 the effectiveness of gambling regulation is by
46 implementing a more independent regulatory office
47 and a more standards-based regulatory model.

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1 And so in furtherance of the new regulatory
2 scheme, GPEB is going to be transitioned to the
3 new Independent Gambling Control Office, the
4 IGCO. And that office will have the mandate,
5 authority and independence to ensure the overall
6 integrity of gambling in B.C. And so it will
7 focus exclusively on regulatory policy matters
8 related to gambling and horse racing and
9 responsible gambling programs. And the IGCO will
10 have the authority to set and enforce new
11 provincial regulatory anti-money laundering
12 requirements for both BCLC and for the commercial
13 gambling industry. An amendment to the *Gaming*
14 *Control Act* will also clarify the regulators'
15 role in mitigating the risks of money laundering
16 in casinos.

17 And so the new entity, the IGCO, will be
18 overseen by a general manager who will be
19 appointed by cabinet for a fixed term and will be
20 required to report publicly to the Legislative
21 Assembly on its operations.

22 And so, in a move towards putting into place
23 the new regulatory structure, in November of
24 2018, certain amendments to the *Gaming Control*
25 *Act* were brought into force. First, s. 28(2) of
26 the Act was amended to empower the general
27 manager to make directives to BCLC without
28 approval from the Minister. Prior to this
29 amendment, GPEB's general manager was required to
30 receive ministerial approval before issuing a
31 directive applicable to BCLC. And so eliminating
32 that requirement provides GPEB with greater
33 independence from government and provides some
34 clarity in its role as BCLC's regulator.

35 Second, s. 92 of the Act was amended to
36 extend the authority to refuse entry to a
37 gambling facility if the presence of a person is
38 deemed to be undesirable, and this includes
39 persons who may be associated with criminal
40 organizations or money laundering. Prior to the
41 amendment, only BCLC had the authority to refuse
42 entry.

43 And then finally, s. 97(2.1) of the Act was
44 amended to include BCLC within the list of
45 organizations or entities who may commit an
46 offence if they do not provide certain
47 information requested by GPEB for the purposes of

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1 an investigation or fail to report incidents to
2 GPEB. And this amendment is intended to promote
3 compliance with statutory requirements and
4 provide effective sanctioning powers. And prior
5 to the amendment, BCLC was not subject to these
6 offence provisions.

7 And so government is optimistic that these
8 amendments and the transition to the IGCO will
9 address concerns raised by Dr. German about
10 regulatory policy being made separately from
11 decisions about revenue generation.

12 The work necessary to bring this regulatory
13 model into effect is already under way and
14 government presently intends to introduce
15 legislation in the spring of 2021 to bring the
16 IGCO into force, of course subject to
17 recommendations and findings made by this
18 Commission.

19 Another area in which government is looking
20 to provide further coordination and clarity is in
21 terms of the relationship between the various
22 stakeholders: GPEB, BCLC, and law enforcement.
23 And so historically, pursuant to a memorandum of
24 understanding from March 2004, GPEB and the RCMP
25 had established the Integrated Illegal Gaming
26 Enforcement team, or IIGET, and IIGET's mandate
27 was to maintain the integrity of public gaming in
28 the province by enhancing the level of
29 enforcement specifically targeting illegal
30 gaming.

31 Now, IIGET was initially intended to
32 continue for a five-year period ending in 2008,
33 and in 2007 a review identified various
34 limitations, including staffing issues and a
35 focus on gambling outside of casinos as opposed
36 to illegal activity inside casinos. So following
37 that review, IIGET's mandate was extended by a
38 year to March of 2009. Now, in January of 2009,
39 a review prepared for IIGET's consultative board
40 noted that Canadian casinos were vulnerable to
41 money laundering because they deal in cash and
42 handle millions of dollars on a daily basis, and
43 also that Asian organized crime figures were
44 believed to be involved in illegal gaming
45 activities, including loan sharking and money
46 laundering. Despite these findings, the IIGET
47 memorandum of understanding expired and IIGET was

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1 disbanded on March 31st, 2009.

2 Seven years later, in 2016, government
3 joined forces with the Combined Forces Special
4 Enforcement Unit, or CFSEU, to form the Joint
5 Illegal Gaming Investigation Team, or JIGIT,
6 which I mentioned earlier. And that is a
7 coordinated investigation unit designed to crack
8 down on illegal gambling and money laundering
9 both inside and outside of casinos. And so while
10 JIGIT is a unit within the RCMP, there are seven
11 GPEB staff embedded within JIGIT in its
12 investigative and intelligence capacities, and
13 those staff provide in-depth gambling expertise
14 to JIGIT and other law enforcement agencies in
15 the province.

16 And so JIGIT's primary focus is to disrupt
17 organized crime and gang involvement in illegal
18 gambling and to prevent criminals from using B.C.
19 gambling facilities to launder the proceeds of
20 crime.

21 Another key component of government's
22 approach going forward is to continue a renewed
23 cooperative approach with GPEB, BCLC and law
24 enforcement. And so first, in January of 2018,
25 GPEB, BCLC and JIGIT formed the Gaming
26 Intelligence Group, and the objective of that
27 group is to enhance the current anti-money
28 laundering regime in B.C. casinos by opening
29 lines of communication to more broadly share
30 information around suspicious transactions, high
31 risk patrons, and threats of criminality. The
32 Gaming Intelligence Group holds weekly
33 teleconferences to share information about real
34 time incidents, including examining suspicious
35 transactions in areas of concern. The group also
36 holds monthly meetings that focus on identifying
37 overall trends and how current processes should
38 be modified and improved.

39 And then most recently, in 2019, members of
40 GPEB's Intelligence Unit were integrated with law
41 enforcement within JIGIT to form the Gaming
42 Intelligence Unit. And that unit's mandate is to
43 provide a quality, dedicated, integrated and
44 coordinated multi-jurisdictional intelligence
45 approach to illegal gaming in British Columbia.
46 And here the emphasis is on transnational
47 organized crime networks and money laundering.

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1 And so the hope is that the Gaming Intelligence
2 Unit will enhance all levels of enforcement,
3 disruption and deterrence by specifically
4 targeting high threat criminal activities.

5 The GIU will manage the available
6 information that's deemed to have a significant
7 threat to the integrity of gambling and develop
8 actionable intelligence about criminal
9 involvement in gambling, which includes money
10 laundering, that can then be used by all levels
11 of law enforcement and the provincial regulator.

12 So these steps show that government's
13 commitment to removing money laundering from
14 B.C.'s casinos is under way, though of course
15 more is needed, and government looks forward to
16 the Commission's guidance in that regard.

17 Turning, then, to the real estate sector.
18 In September of 2018, the province launched a
19 two-pronged review aimed at shutting down avenues
20 of money laundering in real estate sectors. The
21 first component was led by the Ministry of
22 Finance and was to identify systemic risks that
23 leave the real estate and financial services
24 sectors open to money laundering. And so the
25 Ministry of Finance appointed Professor Maureen
26 Maloney to chair the Expert Panel on Money
27 Laundering in Real Estate. That panel examined
28 how regulation related primarily to the corporate
29 and financial sectors can be used to combat money
30 laundering and market abuse related to the real
31 estate market. The panel reviewed B.C.'s
32 financial regulatory system, examined
33 international AML best practices, and made
34 recommendations to improve the B.C. financial
35 regulatory framework and integrate B.C.'s regime
36 into core federal AML legislation and practice.

37 The second component was led by the Attorney
38 General and was to investigate specific cases of
39 problematic activity in real estate and other
40 vulnerable sectors to attempt to uncover the ways
41 that money launderers have operated in the
42 province. And this was Dr. German's second
43 report. His second review examined whether there
44 is evidence of money laundering in real estate,
45 horse racing and luxury car sectors.

46 The Expert Panel and Dr. German's second
47 report were delivered to government in March of

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1 2019, and in particular shed light on why housing
2 prices in B.C. and in particular the Lower
3 Mainland have become disconnected from local
4 income. The Expert Panel estimated that
5 \$7.4 billion dollars were laundered in B.C. in
6 2018 and found that a significant part of the
7 money laundering flow is invested in real estate,
8 estimated to be up to \$5.3 billion in 2018, which
9 is almost five percent of the total volume of
10 transactions in the province.

11 The Expert Panel estimated that the effect
12 of money laundering is to make house prices in
13 B.C. between 3.7 and 7.5 percent higher than they
14 would be in the absence of money laundering.
15 British Columbians were understandably troubled
16 by these figures.

17 The Expert Panel then went on to make 29
18 recommendations for an effective system to combat
19 money laundering and control market abuse in real
20 estate. The recommendations include provincial
21 regulatory improvements, improvements to national
22 AML legislation and practice, and improved data
23 sharing and institutional coordination.

24 In particular, the panel identified
25 disclosure of beneficial ownership as the single
26 most important measure that can be taken to
27 combat money laundering. In turn, we set out in
28 paragraph 59 Dr. German's findings from his
29 second report.

30 And as we say in paragraph 61, the impact of
31 money laundering in B.C. can be seen in every
32 corner of our province, driving up the cost of
33 goods, affecting business competitiveness,
34 eroding trust in our economy and institutions,
35 and facilitating criminal activities such as drug
36 trafficking that is responsible for many opioid-
37 related deaths in this province. Money
38 laundering corrodes the rule of law, encourages
39 criminal activity, and distorts markets,
40 contributing to unaffordability.

41 Money laundering has no place in our
42 society, and the Province is committed to
43 developing and implementing a long-term
44 provincial AML strategy. In this regard, some of
45 the recent steps that the Province has taken to
46 combat money laundering in real estate are
47 outlined in the following paragraphs. The

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1 primary ones that I will touch on are the Land
2 Owner Transparency Registry, the creation of the
3 B.C. Financial Services Authority, and the
4 beginning stages, the consultative stages of
5 replacing the *Mortgage Brokers Act*.

6 So dealing first with the Land Owner
7 Transparency Registry, the reason why this is
8 important is that money laundering often relies
9 on the ability to disguise the ownership of
10 property in order to make it difficult to link
11 the property back to the proceeds of a specific
12 crime or that fact that the property is being
13 used for a criminal purpose. So opaque ownership
14 structures have allowed criminals to remain
15 anonymous and have provided a veil with which to
16 conceal money-laundering activity in real estate.

17 And so in recognition of the need for
18 immediate and comprehensive, forward-looking
19 action, the Province passed the *Land Owner*
20 *Transparency Act* last spring, and that act
21 establishes a publicly accessible registry of
22 beneficial ownership in real estate. It will be
23 the first of its kind in Canada and will provide
24 valuable information about the true ownership of
25 real estate in B.C.

26 Next, the creation of a single regulator for
27 real estate. This was one of the central
28 recommendations from Dan Perrin's Real Estate
29 Regulatory Structure Review, which report was
30 released in September of 2018. And that report
31 was commissioned by the Ministry of Finance as a
32 result of concerns about the effectiveness of
33 real estate regulation in B.C., and found that
34 the current structure has resulted in systemic
35 barriers to effective regulation. And so Mr.
36 Perrin concluded that the Office of the
37 Superintendent of Real Estate and the Real Estate
38 Council of B.C. ought to be merged into the
39 Financial Institutions Commission as the single
40 regulator. And this same recommendation was
41 echoed in the Maloney report.

42 And so the Province's establishment of the
43 BCFSA last fall reflects the government's
44 commitment to building a modern, efficient and
45 effective regulatory framework. The *Financial*
46 *Services Authority Act* established the BCSFA as a
47 new Crown entity that replaces FICOM. And so on

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1 November 1st, 2019, FICOM was dissolved and the
2 BCFSA took on all of FICOM's regulatory
3 responsibilities.

4 Going forward, the Ministry of Finance is
5 targeting the fall of 2020 to bring forward new
6 legislation to include real estate in the BCFSA's
7 mandate, hopefully by the spring of 2021. The
8 intent is that the Office of the Superintendent
9 of Real Estate and the Real Estate Council of
10 B.C. will be integrated within the BCFSA, and as
11 the single regulator, the BCFSA will take
12 responsibility over real estate licensing,
13 conduct, investigations and discipline.

14 The third point I intend to touch on today
15 is the *Mortgage Brokers Act*, which was enacted
16 back in 1972 as consumer protection legislation.
17 Although it has been amended several times since
18 its enactment, the fact of the matter is that it
19 has simply not kept pace with the evolving
20 national and international standards in consumer
21 protection or with changes in the financial
22 services market and emerging issues such as money
23 laundering in real estate. And so the Expert
24 Panel on Money Laundering described the *Mortgage*
25 *Brokers Act* as antiquated and recommended
26 replacing it with a more modern statute.

27 And so given that financial sector stability
28 and consumer protection remain core priorities
29 for government, government is moving towards
30 implementing that recommendation, but starting
31 with consultation. And so last month the
32 Ministry of Finance released a consultation paper
33 to elicit discussion and feedback from
34 stakeholders on a replacement for the current
35 *Mortgage Brokers Act*.

36 And so what the Ministry is proposing to do
37 is develop legislation that sets out current best
38 practices, and we've set out in paragraph 73
39 somewhat of a laundry list of some of the issues
40 and topics that ought to be addressed in the new
41 legislation.

42 In the following paragraphs, what we've set
43 out are a few additional steps that government is
44 taking to address money laundering in the real
45 estate sector. And that includes the
46 establishment of FREDA, the Finance, Real Estate
47 and Data Analytics Unit. It includes a

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1 federal/provincial ad hoc working group on real
2 estate and also, as set out in paragraph 79, the
3 establishment of Canada's first online register
4 for presale condo sales to track assignments,
5 updating the property transfer tax return to
6 uncover beneficial owners behind corporations and
7 trusts, enacting legislation to allow information
8 sharing with federal tax officials regarding the
9 home owner grant, which is hoped to help improve
10 tax enforcement, and strengthening property
11 transfer tax auditors' ability to take action on
12 tax evasion.

13 THE COMMISSIONER: Some jurisdictions use tools which
14 may be controversial in this jurisdiction, like
15 unexplained wealth orders. Does the Province
16 have a position on that? Is that something that
17 the Province is looking at?

18 MS. HUGHES: I don't believe the Province has a firm
19 position on that to date, but certainly as
20 something that is being used in other
21 jurisdictions, and the Province is looking at all
22 various means of addressing the issue and is
23 looking at what other jurisdictions are doing.

24 THE COMMISSIONER: Thank you.

25 MS. HUGHES: This brings me to paragraph 80 of the
26 submission, Mr. Commissioner, and the other
27 vulnerable sectors that have been identified in
28 addition to gambling and real estate. And as we
29 saw in Dr. German's first report, money
30 laundering is not limited to casinos, and he
31 recommended certain other areas of research be
32 undertaken, including luxury car and horse race
33 sectors along with real estate, which we've
34 covered.

35 And so in furtherance of the outcome of Dr.
36 German's second review, government is also taking
37 steps towards two other initiatives, first a
38 corporate transparency, and second, some work
39 with post-secondary institutions.

40 So dealing first with the corporate
41 beneficial ownership transparency, the Expert
42 Panel on Money Laundering in Real Estate -- that
43 was the Maloney panel -- highlighted the
44 importance of corporate beneficial ownership
45 disclosure to the disruption of money laundering.
46 The Expert Panel found that in addition to public
47 beneficial ownership disclosure for land, public

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1 beneficial ownership disclosure for legal
2 persons, such as corporations, trusts and
3 partnerships, will add valuable information that
4 is vital to law enforcement, tax authorities, and
5 federal and provincial regulators in undertaking
6 investigations.

7 And so government has already taken
8 significant steps to increase corporate
9 transparency. Last spring the *Business*
10 *Corporations Act* was amended to require private
11 companies to maintain records of beneficial
12 owners, which they refer to as significant
13 individuals. And as of May 1st, 2020, all B.C.
14 private companies will be required to keep
15 transparency registers with accurate and up-to-
16 date information about the true owners of their
17 shares.

18 And so the Province is currently engaging
19 with the public on next steps for increasing
20 beneficial ownership transparency. And in
21 furtherance of this last month, the Ministry of
22 Finance released a consultation paper on a public
23 beneficial ownership registry.

24 Government is currently seeking public input
25 on issues related to the proposed beneficial
26 owner registry, and we've set out some of those
27 issues in paragraph 84. And again, this is also
28 an area in which government welcomes further work
29 from the Commission and recommendations in that
30 regard.

31 And then finally, dealing with post-
32 secondary institutions, Dr. German identified
33 post-secondary institutions as a sector that was
34 vulnerable to money laundering. And we've set
35 out in paragraph 85 a summary of how that can
36 occur. For example, students have been known to
37 register in person and, after paying their fees,
38 then withdraw from the institution and receive an
39 institutional cheque in reimbursement for their
40 fees. Or they've registered from abroad and then
41 withdraw before the deadline and utilize an agent
42 to collect their refund cheque.

43 And so in order to address this potential
44 issue, government is actively engaging and
45 working with post-secondary institutions to
46 ensure that they don't become greater targets for
47 money laundering. Last spring the Minister of

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1 Advanced Education, Skills and Training wrote to
2 all public and private post-secondary
3 institutions to alert them to Dr. German's
4 finding and asked them to immediately review
5 their financial policies to ensure that payments
6 with large amounts of cash, i.e. thousands of
7 dollars, from single students are not accepted.

8 And then of course if the institution had a
9 current policy regarding the acceptance of cash,
10 the Minister requested the institution share that
11 policy with government, including any proposed
12 changes, so as to help inform any future guidance
13 or direction that the Ministry may provide on the
14 issue.

15 Finally, in recognition of the fact that
16 money laundering is a complex problem, government
17 recognizes that an effective regulatory
18 enforcement response must have the flexibility to
19 respond across all sectors. And so in
20 furtherance of this, in June of 2019, the
21 Province re-established the Anti-Money Laundering
22 Deputy Ministers' Committee with an expanded
23 mandate and updated membership and roles.

24 So the objective of the AML Deputy
25 Ministers' Committee is to lead the development
26 of a provincial multi-sectoral strategic response
27 to anti-money laundering. This expanded mandate
28 aims to ensure a coordinated government multi-
29 sectoral approach to AML issues to respond to the
30 German reports and the Maloney report and to
31 attend to the implementation of recommendations
32 arising out of those reports and of this
33 Commission's work.

34 The AML Deputy Ministers' Committee is
35 responsible to the Attorney General, the Minister
36 of Finance, and the Solicitor General, and is
37 supported by an Anti-Money Laundering
38 Secretariat, the Ministry of Finance's policy and
39 legislation division, and the Public Safety and
40 Solicitor General's Policing and Scrutiny Branch.
41 And then we've set out in paragraphs 90 and 91
42 the various roles and responsibilities of the AML
43 Secretariat and the AML Deputy Minister's
44 Committee.

45 And so, Mr. Commissioner, as is evident from
46 the wide variety of areas that I have touched on
47 in this opening, money laundering is a complex

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1 problem that requires a multi-faceted response.
2 Without intervention, the criminal economy
3 remains a very real threat that will continue to
4 impact British Columbian families. Evidence of
5 this threat is manifested in an opioid crisis
6 that has and continues on a daily basis to claim
7 the lives of far too many British Columbians, and
8 a real estate market where hard-working, law-
9 abiding families are priced out of home ownership
10 in favour of straw buyers or criminals.

11 Government is committed --

12 THE COMMISSIONER: I'm sorry. On that last point, I
13 expect we may hear evidence as we progress that
14 there are a number of different economic forces
15 at work that drive up the price of houses in
16 Vancouver and several centres throughout British
17 Columbia, that it's not just money laundering.
18 Has the Province attempted an analysis of that,
19 or is that something that would be useful for us
20 to pursue in the course of this Commission?

21 MS. HUGHES: The Province has the findings from
22 Maureen Maloney's work and the Expert Panel, but
23 it would certainly be, in the Province's
24 submission, an area that could benefit from
25 further work from the Commission.

26 THE COMMISSIONER: Okay, thank you.

27 MS. HUGHES: And so government is committed to
28 building a robust anti-money laundering regime,
29 and in this regard it encourages the Commission
30 to be fearless and ambitious in its work. The
31 consequences of not examining how money
32 laundering was permitted to proliferate and
33 failing to address this crisis are serious and
34 ongoing.

35 Increased sharing of information and a
36 coordinated response from federal and provincial
37 stakeholders will be a key component of
38 addressing money laundering in the province.
39 Government is optimistic that the Commission's
40 work will illustrate where coordination is needed
41 most and how we can effectively facilitate multi-
42 jurisdictional entities working together.

43 Government looks forward to participating in
44 the Commission's process and welcomes the
45 Commission's findings and recommendations. While
46 -- and as I have demonstrated throughout this
47 opening -- some initial actions have already been

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1 taken, government comes to this inquiry with an
2 open mind and a willingness to take additional
3 steps as necessary to ensure that money
4 laundering does not continue to undermine our
5 economy and negatively impact the lives of
6 British Columbians.

7 By learning more about what happened in the
8 past in terms of decisions and regulatory or
9 enforcement gaps that may have facilitated money
10 laundering, we will be better able to put in
11 place a more effective regulatory and enforcement
12 regime for the future.

13 Government thanks the Commissioner and
14 Commission counsel for the dedicated efforts in
15 furtherance of the Commission's mandate, and also
16 wishes to express its appreciation and thanks to
17 all of the participants for contributing their
18 perspectives and assisting the Commission over
19 the course of this inquiry.

20 This inquiry has an ambitious mandate but
21 one that is of significant importance to everyone
22 in our province. Government is confident that
23 the Commission's work will provide the
24 information necessary to identify and close key
25 loopholes, draft improved laws, and improve
26 enforcement activities to assist in removing
27 dirty money from our province.

28 Thank you, Mr. Commissioner.

29 THE COMMISSIONER: Thank you, Ms. Hughes. I think what
30 we'll do is take a brief adjournment now, 15
31 minutes.

32 THE REGISTRAR: The hearing will recess for 15
33 minutes. Please remain standing while the
34 Commissioner exits the room.

35
36 (PROCEEDINGS RECESSED FOR MORNING RECESS)

37 (PROCEEDINGS RECONVENED)

38
39 THE REGISTRAR: All rise.

40 THE COMMISSIONER: Yes, Ms. Hoffman.

41
42 OPENING STATEMENT BY MS. HOFFMAN (GOVERNMENT OF
43 CANADA):

44
45 MS. HOFFMAN: The Government of Canada would like to
46 thank the Commission of Inquiry into Money
47 Laundering in British Columbia and its members

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1 for your efforts to distinguish the nature and
2 extent of money laundering in British Columbia,
3 its causes and how best to address them. We
4 applaud the Government of British Columbia for
5 demonstrating leadership to address these complex
6 issues in the province.

7 Canada strongly supports the Commission's
8 mandate and is committed to participating in the
9 inquiry to the fullest extent possible. Canada
10 has provided and will continue to provide
11 documents to the Commission within our
12 legislative authority, while ensuring the
13 protection of privacy and ongoing police
14 investigations. Canada will also continue to
15 facilitate the attendance of government witnesses
16 at the inquiry, many of whom have considerable
17 expertise in the prevention, detection and
18 disruption of money laundering and terrorist
19 financing activities.

20 THE COMMISSIONER: Thank you, Ms. Hoffman. I should
21 note perhaps for some of those present that this
22 is of course a provincial commission of inquiry,
23 and money laundering obviously has many federal
24 dimensions. But we very much appreciate Canada's
25 agreement to cooperate with the Province in
26 enabling us to acquire information from federal
27 agencies and entities without the need to become
28 embroiled in jurisdictional struggles or
29 fracas. So I take it from what you're saying
30 that Canada is committed to assisting the
31 Commission in acquiring its information from
32 those federal entities in so far as it implicates
33 money laundering in the Province of British
34 Columbia.

35 MS. HOFFMAN: That's correct, Mr. Commissioner. We
36 have been and we will continue to provide
37 information to explain the federal regime.
38 Obviously, as I will get into in the submissions,
39 they work in tandem, and your Commission needs to
40 understand how the federal regime operates.

41 THE COMMISSIONER: Thank you.

42 MS. HOFFMAN: Canada is proud to be well known around
43 the world for its stable and open economy,
44 accessible and efficient and advanced financial
45 system, and strong democratic institutions.
46 Unfortunately, those seeking to launder proceeds
47 of crime or raise, transfer and use funds for

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1 terrorism purposes have tried, and will continue
2 to try, to exploit these strengths for their own
3 illicit gains. Canada recognizes that money
4 laundering and terrorist financing pose a
5 significant threat to domestic and global safety
6 and security and can compromise the integrity and
7 stability of the financial sector and the broader
8 economy.

9 These are not victimless crimes. Rather,
10 the social, economic, and political consequences
11 of money laundering and terrorist financing are
12 sweeping and indiscriminate. By laundering
13 money, serious and other organized criminals are
14 able to profit from some of the most damaging
15 crimes, and operate to expand their criminal
16 empires. Money laundering can fuel other
17 criminal activities such as drug trafficking,
18 human trafficking, and violent gang crime, as
19 well as the overdose crisis that has harmed
20 communities across the country. Money laundering
21 can distort market prices and harm the legitimate
22 Canadian economy by making housing less
23 affordable, and money laundering can deny
24 governments tax revenue necessary for vital
25 social programs.

26 While British Columbia has received much
27 attention regarding this problem, money
28 laundering is a national concern and the
29 potential damage that money laundering can cause
30 to business and civil society demands a clear,
31 strategic, and timely response from all
32 jurisdictions.

33 Throughout Canada, there is widespread
34 recognition that more must be done to combat this
35 threat. Alongside the federal government,
36 provincial and territorial governments have an
37 important role to play with respect to regulatory
38 and enforcement responsibilities, for example, in
39 safeguarding against the misuse of corporations,
40 real estate, casinos, money service businesses,
41 and the legal profession, and conducting
42 investigations and prosecutions.

43 The Minister of Finance, the Honourable Bill
44 Morneau, acknowledged the need for ongoing focus
45 and further efforts at the June 2019 Special
46 Joint Ministerial Meeting that was convened to
47 bring together federal, provincial, and

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1 territorial Ministers of Finance and Ministers
2 responsible for AML. And we've included a quote
3 from that meeting at paragraph 7 of our
4 submissions.

5 At the same time, Canada recognizes the need
6 to ensure that robust AML/ATF measures respect
7 the privacy rights afforded to Canadians under
8 the *Canadian Charter of Rights and Freedoms* with
9 attentiveness to the regulatory burden placed on
10 financial institutions and businesses operating
11 within or transacting with Canada. We
12 acknowledge that there are no easy solutions or
13 quick fixes to the complex issues of money
14 laundering and terrorist financing.

15 We know that tackling money laundering and
16 terrorist financing in Canada requires effective
17 and efficient coordination across all levels of
18 government in Canada, as well as the public and
19 private sectors. It requires governments and
20 institutions to be vigilant and agile in
21 responding to new and emerging vulnerabilities
22 and more sophisticated methods to launder money
23 and finance terrorism.

24 Overall, an effective Canadian response
25 needs to be balanced, flexible, and well
26 co-ordinated. The Government of Canada is
27 steadfast in its resolve to continue to tackle
28 money laundering and terrorist financing, to keep
29 Canadians safe and to protect the integrity of
30 our economy. We look forward to supporting the
31 Commission in this timely and challenging task
32 and to participating in developing solutions
33 informed by past lessons and shared expertise.

34 An effective AML/ATF regime is essential to
35 protect the safety and security of Canadians, and
36 promote the integrity of the financial system.
37 Given the ever-evolving nature of the tactics and
38 methods used to launder money and finance
39 terrorism, the Government continues to reinforce
40 the federal Anti-Money Laundering and Anti-
41 Terrorist Financing Regime -- and I'll refer to
42 that as "the Regime" throughout my submissions.

43 Canada's Regime is comprised of federal
44 departments and agencies, including regulators,
45 supervisors, law enforcement, and intelligence
46 agencies, as well as legislation, regulations,
47 and reporting entities.

1 The Minister of Finance and the Minister of
2 Public Safety and Emergency Preparedness have
3 complementary responsibilities with respect to
4 the Regime. The Regime is accountable to
5 Parliament through the Minister of Finance, who
6 is also responsible for the strategic direction
7 of FINTRAC, which is Canada's AML regulator and
8 financial intelligence unit (FIU). The Minister
9 of Public Safety also plays an important
10 leadership role at the national level. His
11 mandate includes developing new policies and
12 legislation to reduce organized crime and gang
13 activity in Canada, including money laundering.

14 The Regime involves 13 federal departments
15 and agencies, eight of which receive dedicated
16 funding totalling approximately 70 million
17 annually. In addition, individual Regime
18 partners contribute resources in excess of
19 dedicated funding received. Budget 2019 included
20 new funding of 178 million over five years, which
21 started in 2019, and 38 million in ongoing
22 funding, to modernize the AML Regime by
23 strengthening data resources, financial
24 intelligence, information sharing, and
25 investigative capacity.

26 In addition to federal organizations,
27 provincial and municipal law enforcement bodies
28 and provincial regulators are also involved in
29 combatting these illicit activities. These are
30 areas of shared jurisdiction, federal only
31 jurisdiction, and areas where provinces and
32 territories are solely responsible for the
33 regulation of key sectors implicated in the
34 Regime such as the establishment of corporations,
35 partnerships and trusts, the accounting and legal
36 professions, as well as the money service
37 businesses, casinos, and securities sectors.
38 Provincial and territorial law enforcement
39 agencies also play a role in investigations and
40 prosecutions of money laundering and have civil
41 forfeiture regimes that can complement criminal
42 asset recovery.

43 Within the private sector, there are almost
44 24,000 Canadian institutions, businesses and
45 professions with reporting and record-keeping
46 obligations under the *Proceeds of Crime (Money*
47 *Laundering) and Terrorist Financing Act*, or the

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1 *PCMLTFA*. They are known as reporting entities
2 and they play a critical frontline role in
3 efforts to prevent and detect money laundering
4 and terrorist financing.

5 The Regime operates based on three
6 interdependent pillars -- policy and
7 coordination, prevention and detection, and
8 investigation and disruption -- that work
9 together to support efforts to combat organized
10 crime, terrorism, and other major crimes, such as
11 tax evasion, corruption, human trafficking,
12 cybercrime, drug trafficking, and fraud.

13 So to speak now about the first pillar,
14 policy and coordination. The Regime's policy and
15 legislative framework is overseen by the
16 Department of Finance, which leads domestic and
17 international policy coordination on money
18 laundering and terrorist financing. The
19 Department of Finance coordinates the national
20 assessment of money laundering and terrorist
21 financing risks, and policy advice to the
22 Government on domestic and international policy
23 to combat these threats. This policy
24 coordination role includes developing domestic
25 legislation and regulations to combat financial
26 crimes and leading Canada's delegation to the
27 Financial Action Task Force, or FATF, and other
28 fora, both regional and international, related to
29 AML/ATF.

30 So then, in the next section of the
31 submissions we deal with the legislation and
32 regulations, beginning with the *Criminal Code*
33 sections, and I'm going to skip over those. I'm
34 sure the Commissioner is well aware of those --

35 THE COMMISSIONER: Yes.

36 MS. HOFFMAN: -- and move to paragraph 24 of our
37 submissions, where we describe in greater detail
38 the *PCMLTFA*.

39 This legislation and its regulations require
40 certain financial institutions and non-financial
41 businesses and professions, which collectively we
42 refer to as "reporting entities," to identify
43 their clients and keep records in order to
44 establish a paper trail that, with proper
45 judicial authorization, can be accessed by law
46 enforcement for criminal investigations or
47 prosecutions. Reporting entities with

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1 obligations under the Act include banks and
2 credit unions, life insurance companies and
3 brokers, trust and loan companies, securities
4 dealers and money services businesses,
5 accountants and British Columbia notaries, real
6 estate agents, developers, casinos, dealers in
7 precious metals and stones, and the agents of the
8 Crown that accept deposit liabilities.

9 The Act and its regulations contain
10 mandatory reporting requirements for certain
11 types of transactions such as suspicious
12 financial transactions, large cash transactions,
13 and cross-border electronic funds transfers. It
14 also creates obligations for reporting entities
15 to establish and administer an internal AML/ATF
16 compliance program, including identifying money
17 laundering and terrorist financing risks and
18 putting in place measures to mitigate those
19 risks.

20 This legislation also establishes FINTRAC as
21 Canada's financial intelligence unit and
22 authorizes it to receive and analyze information
23 related to suspected money laundering or
24 terrorist financing activity. When FINTRAC, on
25 the basis of its analysis, determines that there
26 are reasonable grounds to suspect that the
27 information is relevant to an investigation or
28 prosecution of a money laundering or a terrorist
29 financing offence, it must disclose certain
30 identifying information to law enforcement,
31 intelligence agencies, and other disclosure
32 recipients. FINTRAC is not a criminal law
33 enforcement investigative agency. Its
34 disclosures are intended to provide law
35 enforcement with leads for investigation or
36 prosecution purposes.

37 THE COMMISSIONER: As I understand it, FINTRAC is
38 seated in the Ministry of Finance for a reason,
39 and that reason has to do with ensuring that
40 citizens' privacy interests are respected. Is
41 that essentially the reasoning behind that?

42 MS. HOFFMAN: Well, I wouldn't say that would be the
43 only reasons, but it is important to recognize
44 that FINTRAC itself is not an investigative body.

45 THE COMMISSIONER: Right.

46 MS. HOFFMAN: Correct, the information in the Act sets
47 out ways in which they can collect that

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1 information and the uses to which that
2 information can be put.

3 THE COMMISSIONER: Right. In her opening statement,
4 Ms. Hughes referred to the need for some agility
5 in dealing with intelligence regarding potential
6 criminal or money laundering activities. FINTRAC
7 has an enormous mandate, as I understand it. As
8 you pointed out, it has some 24,000 entities
9 reporting to it. And again, I think we'll hear
10 evidence that it may receive up to 25 million
11 reports annually.

12 Can you talk a little bit about the ability
13 of FINTRAC to respond to the provincial
14 situation, the provincial needs on a more agile
15 basis?

16 MS. HOFFMAN: Well, certainly I think in the course of
17 the Commission asking to speak to certain FINTRAC
18 witnesses, that would be the best forum in which
19 that issue can be addressed. We can certainly
20 note your concern in that regard and that that's
21 a topic that you're interested in. And I think
22 as we move forward, you will see that in Canada's
23 submissions.

24 THE COMMISSIONER: Right. I'm certainly not pressing
25 you for an answer today. I just am sort of
26 interested in perhaps turning Canada's attention
27 to that.

28 MS. HOFFMAN: Yes. Thank you, Commissioner.

29 The information that is disclosed under the
30 *PCMLTFA* can be used to support domestic and
31 international partners in the investigation and
32 prosecution of money laundering and terrorist
33 financing related offences. The legislation also
34 allows for FINTRAC to conduct research into
35 trends and developments in the area of money
36 laundering and terrorist financing and to take
37 measures to inform reporting entities, law
38 enforcement authorities, and the public on the
39 nature and extent of money laundering and
40 terrorist financing domestically and
41 internationally, as well as the obligations for
42 reporting entities under the Act.

43 Public Safety Canada is the lead policy
44 department responsible for combatting
45 transnational organized crime and terrorism.
46 Along with the Department of Finance, Public
47 Safety co-chairs the Regime governance committees

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1 to coordinate the implementation of AML/ATF
2 policies across Regime partners. Public Safety
3 is responsible for the implementation of Canada's
4 Counter-Terrorism Strategy and the National
5 Agenda to Combat Organized Crime. The RCMP and
6 CSIS and Canada Border Services Agency all report
7 to the Minister of Public Safety and Emergency
8 Preparedness.

9 Public Safety is leading the development of
10 the newly created Anti-Money Laundering Action,
11 Coordination and Enforcement Team, or the ACE
12 Team. This was announced in Budget 2019 and
13 brings together experts from across intelligence
14 and law enforcement agencies to strengthen
15 coordination and cooperation, and identify and
16 address significant money laundering threats.

17 They are responsible for advising on
18 amendments to the *Criminal Code* as well as the
19 *Mutual Legal Assistance in Criminal Matters Act*
20 and the *Extradition Act*, the two main statutes in
21 relation to Canada's ability to cooperate
22 internationally on money laundering and terrorist
23 financing cases.

24 Global Affairs Canada implements elements of
25 Canada's efforts to combat terrorism financing,
26 proliferation financing, and to combat the
27 laundering of proceeds of certain crimes. Global
28 Affairs is responsible for Canada's economic
29 sanctions legislation and is the lead department
30 for the United Nations crime conventions that
31 Canada has ratified, some of which contain legal
32 obligations relating to money laundering,
33 terrorist financing, and other related public
34 safety issues. In addition, Global Affairs'
35 Counter-Terrorism Capacity Building Program and
36 Anti-Crime Capacity Building Program provide
37 technical assistance for capacity building to
38 address the needs of states that lack the laws,
39 policies, plans, training, or operational
40 expertise to prevent and mitigate acts of
41 terrorism and combat organized crime and
42 corruption.

43 So all federal partners share responsibility
44 for the ultimate outcomes of the Regime, which is
45 governed by various inter-departmental
46 committees. The Regime's governance structure
47 was enhanced in 2019 to improve cohesion across

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1 partners and these committees work together to
2 ensure an efficient Regime with a focus on both
3 policy and operations, anchored in shared
4 intelligence on current money laundering and
5 terrorist financing modalities, as well as the
6 wider structure and activities of criminal and
7 terrorist networks operating and transacting
8 within the Canadian financial system.

9 And we set out the details of this structure
10 in paragraphs 33 to 38 of our submissions, and I
11 won't go through those, but they're there for
12 your reference.

13 So moving on to public sector engagement.
14 From their frontline role in defending Canada's
15 financial system from money laundering and
16 terrorist financing threats, the Regime places
17 priority on engaging with the private sector and
18 other stakeholders to support the Regime's
19 overall effectiveness. The Advisory Committee on
20 Money Laundering and Terrorist Financing is a
21 public-private advisory committee with the role
22 of encouraging collaboration and transparency
23 with the private sector.

24 This advisory committee is responsible for
25 facilitating information sharing and
26 consultation, providing a high-level discussion
27 forum to address emerging issues, and providing
28 advice for Canada's overall AML/ATF policy. And
29 the next paragraph of our submission describes
30 the membership of this advisory committee in
31 detail.

32 So moving on to the second pillar of
33 Canada's AML Regime, which is prevention and
34 detection. This provides strong measures to
35 prevent individuals from placing illicit proceeds
36 or terrorist-related funds into the financial
37 system, while having correspondingly robust
38 measures to detect the placement and movement of
39 such funds.

40 At the centre of this prevention and
41 detection approach are the aforementioned
42 reporting entities, which serve as the
43 gatekeepers of the financial system in
44 implementing the various measures under the
45 *PCMLTFA*.

46 FINTRAC is Canada's principal AML/ATF
47 regulator and administers a comprehensive, risk-

1 based compliance program to assist and ensure
2 that thousands of Canadian businesses fulfill
3 their obligations under the *PCMLTFA*.

4 Compliance with the legislation ensures that
5 FINTRAC receives the information that it needs to
6 generate actionable financial intelligence for
7 Canada's police, law enforcement, and national
8 security agencies. Promoting compliance with
9 frontline reporting entities incorporates a level
10 of deterrence by ensuring that relevant questions
11 are asked and appropriate records are kept to
12 deter criminals from using the legitimate
13 financial system to launder their illicit money.

14 FINTRAC provides businesses with
15 comprehensive, clear, and direct guidance to help
16 them better understand and comply with their
17 obligations under the *PCMLTFA*. As part of its
18 broader transparency initiative in 2018-2019, the
19 Centre published its Compliance Framework, which
20 captures the guiding principles that shape
21 FINTRAC's compliance program. It provides a
22 comprehensive description, in an easy to navigate
23 format, on the services and tools that are
24 available to assist businesses in complying with
25 their obligations.

26 This enhanced support and transparency
27 initiative reinforces FINTRAC's assessment
28 approach to ensuring compliance. With this
29 approach, the emphasis is on the overall
30 effectiveness of a business's compliance program,
31 including the impact of non-compliance on
32 achieving the objectives of the Act and the
33 Centre's ability to carry out its mandate. The
34 initiative also focuses on the three pillars of
35 FINTRAC's compliance program: assistance,
36 assessment and enforcement.

37 Over the past year, FINTRAC's outreach
38 efforts have focused on increasing awareness and
39 understanding, as well as eliciting feedback, on
40 the new regulatory amendments developed by the
41 Department of Finance.

42 FINTRAC has also engaged extensively with
43 real estate regulatory bodies, associations, and
44 businesses across the country to strengthen
45 compliance in the sector. For example, the
46 Centre signed a new memorandum of understanding
47 with the Real Estate Council of British Columbia.

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1 The first of its kind for real estate regulators
2 in Canada, the memorandum of understanding
3 applies a framework within which FINTRAC and the
4 Real Estate Council of British Columbia can share
5 compliance-related information in order to
6 strengthen compliance in the real estate sector
7 in B.C. It also helps to enhance the knowledge
8 and expertise of each organization regarding new
9 and evolving trends in the real estate sector in
10 British Columbia and across Canada.

11 The Office of the Superintendent of
12 Financial Institutions, or OSFI, supervises and
13 regulates more than 400 federally regulated
14 financial institutions and 1,200 pension plans.
15 OSFI regulates by developing rules, interpreting
16 legislation and regulations, and providing
17 regulatory approvals for certain types of
18 transactions. All of this must balance the goals
19 of safety and soundness with the need for
20 institutions to operate within a competitive
21 marketplace.

22 In line with its prudential regulatory
23 mandate, OSFI assesses these institutions'
24 financial condition, material risks and the
25 quality of its governance, risk management, and
26 compliance processes. When weaknesses are
27 identified, OSFI intervenes early and works with
28 executive management and boards to adopt
29 corrective measures. OSFI regularly issues
30 guidance outlining sound business and financial
31 practices and posts these guidelines publically
32 on its website.

33 Although OSFI plays an important oversight
34 role, it does not manage the operations of
35 institutions. Their respective executive
36 management and boards of directors are
37 responsible for their success or failure. OSFI's
38 supervision approach is risk-based to reflect the
39 nature, size, complexity, and risk profile of an
40 institution. Financial institutions must be
41 allowed to take reasonable risks and compete
42 effectively both at home and abroad, while at the
43 same time safeguarding the risks of depositors,
44 policyholders and creditors. OSFI's goal is to
45 balance competitiveness with financial stability,
46 and international standards with Canadian market
47 realities.

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1 OSFI is an independent government agency
2 that reports and is accountable to Parliament
3 through the Minister of Finance, and is funded
4 through assessments and pension plans.

5 Until recently, OSFI and FINTRAC conducted
6 concurrent or joint assessments of FRFI AML/ATF
7 compliance. In an effort to enhance coordination
8 of supervision in this context, OSFI and FINTRAC
9 have established an approach to supervision that
10 aligns with the agencies' respective mandates and
11 authorities. Following a transition period,
12 FINTRAC will exercise primary responsibility for
13 conducting independent AML/ATF compliance
14 examinations of financial institutions against
15 the *PCMLTFA* and the associated regulations. OSFI
16 will apply its prudential lens by leveraging
17 FINTRAC's work in assessing the strength of these
18 financial institutions' regulatory compliance and
19 risk management practices.

20 This approach will deliver a strong and
21 effective AML/ATF Regime, while reducing
22 duplication through better alignment with FINTRAC
23 and OFSI's respective mandates and authorities.
24 Additionally, OSFI and FINTRAC will meet
25 quarterly to exchange relevant information.

26 It is also important to note the role of
27 Innovation, Science and Economic Development
28 Canada, or ISED. This is the federal department
29 responsible for the regulation and oversight of
30 Canada's marketplace framework, which includes
31 corporate governance and federal incorporation
32 under the Canada Business Corporations Act. ISED
33 has played a leadership role in recent years to
34 advance a national approach to strengthen
35 beneficial ownership transparency.

36 Provincial and federal corporate laws,
37 registries, and securities regulations also
38 contribute to preventing and detecting money
39 laundering and terrorist financing in Canada.
40 The concealment of corporate ownership
41 information can be part of international networks
42 used to facilitate tax evasion, money laundering,
43 and other financial crimes. Consequently,
44 effective prevention and detection measures
45 should also allow appropriate authorities to
46 identify who owns companies in Canada.

47 ISED also contributes to the Regime through

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1 its responsibility for the *Personal Information*
2 *Protection and Electronic Documents Act*, or
3 *PIPEDA*, and the related guidance and regulations.
4 This is particularly important in discussions
5 surrounding enhanced information sharing, both
6 between public and private sector and amongst
7 private sector entities, to ensure the privacy
8 rights of Canadians continue to be appropriately
9 protected.

10 So as previously noted, FINTRAC is both
11 Canada's principal AML/ATF regulator and Canada's
12 financial intelligence unit and is accordingly
13 central to Canada's broader AML/ATF Regime.
14 Working with other regulators and law enforcement
15 agencies, it plays a vital role in keeping
16 criminals out of Canada's financial system and
17 supporting efforts to detect and disrupt
18 financial crimes.

19 I've already explained to the Commissioner
20 FINTRAC's independent nature. It operates at
21 arm's length from police and other departments,
22 and this independence is essential to protecting
23 Canadians' privacy rights, given the information
24 that FINTRAC receives.

25 FINTRAC receives and analyzes and assesses
26 reports and information from a variety of sources
27 in order to assist in the detection, prevention,
28 and deterrence of money laundering and terrorist
29 financing. Under the *PCMLTFA*, police, including
30 the RCMP and other government institutions and
31 agencies, can provide voluntary information
32 records to FINTRAC about suspicions of money
33 laundering and terrorist financing. These
34 voluntary records are among the various sources
35 of information, including financial transactions
36 sent by reporting entities, that FINTRAC uses to
37 perform its analytical work. When FINTRAC's
38 analysis meets specific legal thresholds set out
39 in the Act, FINTRAC must disclose financial
40 intelligence to the appropriate law enforcement
41 and/or national security agencies named in the
42 Act.

43 FINTRAC was organized in a way to respond to
44 the threat posed by actors engaging in money
45 laundering and terrorist financing by providing
46 police, law enforcement, and national security
47 officials with the information they need to

1 deprive criminals of the proceeds of their
2 criminal activities, while ensuring that
3 appropriate safeguards are put into place.
4 FINTRAC's mandate and powers are explicitly
5 designed to protect the privacy of personal
6 information. The protection of privacy is
7 crucial to maintaining confidence in the Regime.

8 Financial transactions that reporting
9 entities must report are sent to FINTRAC, not
10 directly to police or law enforcement. Only if
11 FINTRAC has reasonable grounds to suspect the
12 information would be relevant to investigating or
13 prosecuting a money laundering or terrorist
14 financing offence will certain information be
15 disclosed to police, law enforcement agencies, or
16 other recipients of these disclosures. FINTRAC's
17 structure protects privacy and accomplishes the
18 law enforcement need in an effective and
19 efficient manner.

20 FINTRAC cannot disclose all of its
21 information to law enforcement agencies, only
22 specific types of identifying information that
23 are set out in the *PCMLTFA* and its regulations.
24 There are severe penalties for unauthorized
25 disclosure of information by FINTRAC's employees.
26 FINTRAC is subject to the *Privacy Act* and the
27 Privacy Commissioner of Canada conducts regular
28 reviews of the measures taken by FINTRAC to
29 protect the information it receives or collects
30 and reports this to Parliament.

31 The final pillar of the Regime deals with
32 the disruption of money laundering and terrorist
33 financing. Regime partners, such as CSIS, the
34 CBSA, and the RCMP undertake investigations in
35 relation to money laundering, terrorist
36 financing, other profit-oriented crimes, and
37 threats to the security of Canada in accordance
38 with their individual mandates. The Canada
39 Revenue Agency also plays an important role in
40 investigating and prosecuting tax evasion and in
41 detecting charities that are at risk, to ensure
42 that they are not being used to finance
43 terrorism.

44 At the forefront of Canada's efforts to
45 disrupt the illicit flow of proceeds of crime and
46 terrorist financing through Canada is the RCMP.
47 As the national police force, the provincial

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1 police force in all provinces except Ontario and
2 Quebec, and the local police force pursuant to a
3 contract with many municipalities or districts
4 across Canada, the RCMP has a fundamental role in
5 the overall efficacy and success of the Regime.

6 Due to its dual role of federal and contract
7 policing, RCMP members work with either federal
8 or provincial statutes and legislation. In many
9 situations, the role of the Province is of equal
10 importance in impacting the ability of RCMP
11 members to conduct successful money laundering
12 investigations.

13 The RCMP investigates money laundering and
14 terrorist financing cases, lays charges, makes
15 arrests, and seizes funds or assets suspected of
16 being offence-related property and/or proceeds of
17 crime or used to support terrorist criminal
18 activity. Throughout the course of an
19 investigation, the RCMP may work with
20 partners -- including the Public Prosecution
21 Service of Canada, CRA, CBSA, police of
22 jurisdiction, or international law enforcement
23 agencies -- to pursue the investigation.
24 Following investigations, the RCMP may refer
25 cases to the PPSC for prosecution, to the CRA for
26 the purpose of investigating tax fraud, or to
27 civil forfeiture offices to potentially seize and
28 forfeit assets under their own authorities.

29 RCMP operations are premised on
30 collaboration with domestic and international law
31 enforcement agencies and public and private
32 stakeholders. In recognition of the need for
33 collaboration, the RCMP continues to develop
34 initiatives with key stakeholders to enhance its
35 efforts to identify trends, the scope of money
36 laundering, vulnerabilities, information sharing,
37 and mutual operations that can enhance its whole
38 of government response to money laundering.
39 Internationally, the RCMP has liaison officers
40 and analysts deployed to strategic missions to
41 support the RCMP mandate to fight transnational
42 crime and share information between Canadian law
43 enforcement agencies and the law enforcement
44 agency of the host country and assist with
45 capacity building when appropriate.

46 I'd like to move now to speak of Federal
47 Serious and Organized Crime, or FSOC. Under

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1 their federal mandate, the RCMP is tasked with
2 enforcing federal laws, including those related
3 to commercial crime, counterfeiting, drug
4 trafficking, cybercrime, border integrity,
5 transnational and serious organized crime, and
6 other related matters. It also provides counter-
7 terrorism and domestic security and participates
8 in various international policing efforts.

9 Within the ambit of transnational and
10 serious organized crime, proceeds of crime and
11 money laundering investigations are a key
12 activity of federal police. This includes
13 following the money on all tiered Federal
14 Policing investigations to identify, seize, and
15 ultimately submit applications to forfeit the
16 major assets and criminal profits of these crime
17 groups, in addition to uncovering their financial
18 facilitators and criminalized professionals who
19 enable their criminal enterprises to operate
20 effectively.

21 In addition to carrying out asset-tracing
22 and proceeds of crime investigations for all
23 substantive transnational organized crime files,
24 Federal Policing will also lead on files within
25 its jurisdiction that target a professional money
26 launderer, international money controller
27 network, or other major facilitator such as a
28 complicit money service business.

29 In British Columbia, the Federal Policing
30 mandate -- as it relates to money laundering and
31 proceeds of crime -- is a priority for FSOC, of
32 which the Financial Integrity Program is a part.
33 FSOC has teams located in the Lower Mainland, the
34 Island, and Southeast District. The Financial
35 Integrity Program is made up of a number of
36 distinct operational groups, including
37 specialized market enforcement and money
38 laundering teams.

39 In particular, the Integrated Market
40 Enforcement Team, or IMET, has a mandate to
41 detect, deter, and investigate *Criminal Code*
42 capital market fraud offences that are of
43 regional or national significance that pose a
44 threat to investor confidence, economic stability
45 in Canada, and the integrity of Canada's capital
46 markets. In pursuit of these objectives, IMET
47 partners with key stakeholders including: the

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1 FBI, CRA, the B.C. Securities Commission, Civil
2 Forfeiture Office, Real Estate Council of British
3 Columbia, and Bank Investigators, among others.

4 In addition, the Financial Integrity Program
5 houses two specialized money-laundering teams
6 tasked with intelligence-led detection,
7 disruption and enforcement of organized crime
8 groups involved in money laundering both within
9 the province, nationally, and internationally.
10 The money laundering teams are responsible for
11 investigations and project development
12 respectively, with a focus on four key
13 priorities, which are listed there for you, but
14 essentially to disrupt the criminals using
15 laundered funds; disrupt criminals involved in
16 utilizing underground banking systems; third, to
17 increase formalized engagement with partners and
18 stakeholders in furtherance of their anti-money
19 laundering mandate; and fourth, increasing
20 strategic intelligence to assist in identifying
21 current and future risks, threats and
22 opportunities.

23 The Investigations team conducts large-scale
24 money laundering investigations, including
25 transnational money laundering investigations,
26 and assists on large FSOC priority files with a
27 money-laundering component.

28 The Project Development team contributes to
29 discrete national and international projects,
30 such as specialized probes into mail or tax fraud
31 schemes, criminal use of cryptocurrencies, and
32 trade-based money laundering, to name a few. The
33 team's role is to probe and refer to an
34 investigative team if the probe reveals
35 substantive information and intelligence to
36 warrant a full investigation.

37 I'll now move to speak about the Combined
38 Forces Special Enforcement Unit. Under
39 provincial and municipal contracts, the RCMP also
40 provides frontline policing in all areas outside
41 of Ontario and Quebec that do not have an
42 established local police force, including British
43 Columbia.

44 At the provincial level, the Combined Forces
45 Special Enforcement Unit-B.C., which is the
46 province's anti-gang agency, also plays an
47 important role in the AML/ATF Regime.

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1 Now, Ms. Hughes went through with you the
2 fact that CFSEU-BC houses the Joint Illegal
3 Gaming Investigation Team, or JIGIT, which was
4 formed in 2016. So I will perhaps leave with you
5 paragraph 81 through to 83, which describes sort
6 of the role and mandate of JIGIT, and move to
7 speak about the results that JIGIT has achieved
8 since its inception.

9 So typically, JIGIT's money laundering and
10 loan sharking investigations have focused on top
11 tier organized criminals' exploitation of casinos
12 and banks. JIGIT's investigations have also
13 targeted individuals operating money service
14 businesses that were not compliant with their
15 reporting obligations under the *PCMLTFA*.

16 To date, JIGIT has executed many search
17 warrants on illegal gaming houses throughout
18 British Columbia. These investigations have
19 resulted in charges, convictions, and disruption
20 of criminal enterprises that have led to seizures
21 of various drugs, cash, gaming tables, and the
22 deportation of one individual.

23 In addition, JIGIT's investigation into
24 money laundering, proceeds of crime, and illegal
25 gaming houses have resulted in successful civil
26 forfeitures totalling an amount in excess of
27 \$700,000 since its inception.

28 As a result, JIGIT has developed
29 considerable subject matter expertise and strives
30 to perform a public education function with
31 respect to the identification and reporting of
32 illegal gambling in B.C. in collaboration with
33 its provincial partners.

34 JIGIT has also invested considerable time
35 and effort in information sharing initiatives in
36 order to increase detection, disruption, and
37 enforcement capacity.

38 For example, JIGIT has developed the B.C.
39 Money Laundering Working Group, to engage
40 municipal, provincial, and federal law
41 enforcement resources in British Columbia to
42 share information about money laundering trends,
43 intelligence and investigations. This
44 information sharing initiative is achieved
45 through monthly conference calls with police
46 officers and analysis at all policing levels.
47 In addition to increasing awareness of money-

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1 laundering activity, the group expects to develop
2 a cadre of money-laundering subject matter
3 experts.

4 And again, Ms. Hughes took you through some
5 of the details of this group, and so I will leave
6 paragraphs 90 to 94 with you for your reference.

7 So in March of 2019, JIGIT engaged with the
8 provincial government on the development of a
9 provincial licencing regime for money service
10 businesses in British Columbia. As part of that
11 initiative, JIGIT researched and worked with the
12 Autorité des Marchés financiers in Quebec, who
13 have a robust provincial licensing program for
14 all individuals involved in money service
15 businesses.

16 This collaboration ultimately evolved into a
17 formal working group with representatives from
18 CFSEU-BC, the B.C. Ministry of Finance, the B.C.
19 Attorney General's Office, the B.C. Police
20 Services, Richmond City Council, and the AMF in
21 Quebec. JIGIT is coordinating this initiative
22 with a view to improving provincial regulatory
23 oversight and developing legislation to better
24 govern money service businesses in British
25 Columbia.

26 For JIGIT, these collaborative relationships
27 with both public and private stakeholders are
28 critical to the short- and long-term success of
29 law enforcement and regulation in the gaming
30 industry.

31 Moving on to speak of other intelligence and
32 enforcement partners, in addition to the RCMP,
33 CSIS is at the forefront of Canada's national
34 security system.

35 Generally speaking, CSIS has a mandate to
36 collect, analyze, and report to the Government of
37 Canada information and intelligence concerning
38 threats to Canada's national security, and to
39 take measures to reduce those threats. Under the
40 *PCMLTFA*, CSIS is also a FINTRAC disclosure
41 recipient and may receive financial intelligence
42 relevant to threats to the security of Canada
43 when certain legislative thresholds are met.

44 Information collected by CSIS may also be
45 disclosed to other Regime partners, within its
46 mandate to provide advice to assist in the
47 performance of their activities within the

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1 Regime. For example, CSIS provides voluntary
2 information records to FINTRAC on activities
3 suspected to be a threat to the security of
4 Canada.

5 The CBSA is responsible for ensuring the
6 security and prosperity of Canada by managing the
7 access of people and goods to and from Canada.

8 Within the AML/ATF Regime, CBSA is
9 responsible for the administration and
10 enforcement of Part 2 of the *PCMLTFA*, which
11 requires individuals or entities to report on the
12 cross-border movement of currency or monetary
13 instruments valued at \$10,000 or greater.

14 Border Services Officers enforce the
15 physical cross-border reporting obligation,
16 including the examination of baggage, and can
17 question and search individuals for unreported or
18 falsely reported currency and monetary
19 instruments. The CBSA can seize currency and
20 monetary instruments if they are greater than the
21 reporting threshold and are not reported. Seized
22 non-reported currency and monetary instruments
23 are forfeited with no terms of release when they
24 are suspected to be the proceeds of crime or
25 funds for terrorist financing activities.

26 The CBSA transmits information from cross-
27 border currency reports and cross-border seizure
28 reports to FINTRAC. Separately, the CBSA may
29 also provide voluntary information records to
30 FINTRAC, as appropriate, and is a disclosure
31 recipient of information that FINTRAC must
32 disclose when certain legislative thresholds are
33 met.

34 Finally, the CBSA also plays a pivotal role
35 in the identification of suspected cases of
36 trade-based money laundering and the disruption
37 of related criminal activities. Trade-based
38 money laundering describes the process of
39 disguising proceeds of crime from predicate
40 offences -- such as human trafficking, human
41 smuggling, tobacco smuggling, firearms
42 trafficking, and illicit drug trafficking or
43 terrorist financing activities -- as legitimate
44 trade transactions by misrepresenting import and
45 export declarations for goods entering or leaving
46 Canada.

47 THE COMMISSIONER: There is, I think, a suggestion

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1 that trade-based money laundering is a
2 particularly significant area of money laundering
3 in recent years, and it may be that that's an
4 area that the Commission will want to inquire
5 into fairly closely.

6 MS. HOFFMAN: In fact, we have already been in touch
7 with your counsel about organizing --

8 THE COMMISSIONER: Yes.

9 MS. HOFFMAN: -- people to speak to you about that
10 matter.

11 So moving on to speak of the CRA, which also
12 plays an important role in the investigation and
13 enforcement of Canada's AML/ATF Regime.

14 And their role is twofold: first, to
15 minimize the impact money laundering and
16 terrorist financing have on the Agency's ability
17 to collect and protect taxes and duties; and to
18 protect the integrity of Canada's charitable
19 registration system from the risk of terrorist
20 financing abuse.

21 Since 2010, the CRA can use the powers
22 available under the Regime to investigate money
23 laundering offences when the designated offence
24 is tax evasion under the *Income Tax Act* or *Excise*
25 *Tax Act*.

26 The CRA also provides voluntary information
27 records to FINTRAC and is a disclosure recipient
28 of information from FINTRAC in cases where the
29 information is suspected to be relevant to the
30 investigation or prosecution of a money
31 laundering or terrorist financing offence,
32 relevant to tax evasion, or relevant to the
33 determination that a charity has ceased to meet
34 the registration requirements of the *Income Tax*
35 *Act*.

36 More recently, CRA has played a role in
37 policy discussions that relate to tax evasion,
38 such as work to improve the transparency of
39 beneficial ownership information and the
40 reporting requirements for trust companies.

41 When charges are laid against individuals or
42 entities following an investigation into money
43 laundering, terrorist financing or other
44 activities related to the proceeds of crime,
45 responsibility for prosecution shifts to the
46 Public Prosecution Service of Canada and
47 provincial prosecutors.

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1 And in paragraphs 112 and 113, we describe
2 the mandate and role of the Public Prosecution
3 Service.

4 The restraint and confiscation of proceeds
5 of crime is also an important law enforcement
6 component of the Regime. And Public Services and
7 Procurement Canada manages lawfully seized and
8 restrained property on behalf of the Government
9 of Canada, through the Seized Property Management
10 Directorate. This directorate is co-located with
11 various RCMP units across Canada and provides
12 consultative advice and asset stewardship and
13 disposition services for seized assets through a
14 national network of service representatives,
15 secure warehouses and private sector suppliers.
16 In addition, it offers case management, data
17 gathering, and reporting services to key
18 partners.

19 PSPC's Forensic Accounting Management Group
20 provides forensic accounting expertise to law
21 enforcement at all levels of government to
22 support investigations involving financial
23 crimes. The services include reviewing FINTRAC
24 disclosures provided by law enforcement partners
25 with a mandate to analyze the data and identify
26 potential money laundering indicators, reviewing
27 financial information to provide an expert
28 opinion on money laundering indicators, and
29 preparing expert forensic accounting reports, as
30 well as providing expert testimony on the
31 financial aspects of criminal investigations and
32 prosecutions.

33 In the next paragraph I also describe the
34 role of two other federal stakeholders, which are
35 the Communications Security Establishment, which
36 collects and analyzes foreign signals
37 intelligence, and they are also a disclosure
38 recipient of FINTRAC intelligence; and the Canada
39 Mortgage and Housing Corporation, which provides
40 input to the Regime in the areas of mortgage
41 fraud and coverage of the real estate sector.

42 I'd like now to speak of Canada's
43 international leadership in anti-money laundering
44 and anti-terrorist financing in this context.

45 The growing global nature of crimes related
46 to money laundering and terrorist financing
47 requires international cooperation to learn and

1 share trends, risks, typologies, and best
2 practices. Maintaining current international
3 best practices assists Canada in fulfilling its
4 international commitments to participate in the
5 fight against transnational crime. In addition,
6 international cooperation facilitates
7 investigations and prosecutions domestically and
8 abroad. Canada's efforts also serve to safeguard
9 its financial system against its use as a vehicle
10 for money laundering and terrorist financing.

11 And the International Monetary Fund has
12 commented on the global nature of these crimes in
13 an increasingly interconnected world.

14 In addition to domestic AML/ATF efforts,
15 Canada has taken a strong leadership role in
16 global efforts to disrupt transnational organized
17 crime, including money laundering and terrorist
18 financing.

19 Most notably, Canada is a founding member of
20 the Financial Action Task Force, or FATF, which
21 leads global efforts to adopt and implement
22 measures designed to counter the use of the
23 financial system by criminals.

24 The FATF develops international AML/ATF
25 standards, and monitors their effective
26 implementation through peer reviews and public
27 reporting. To date, FATF has developed 40
28 recommendations and 11 immediate outcomes on
29 AML/ATF, which are widely considered the
30 international standard.

31 To encourage jurisdictions to strengthen
32 their AML/ATF regimes, FATF publishes peer
33 examinations of its members and publicly
34 identifies non-compliance with the international
35 AML/ATF standards. FATF also leads international
36 efforts related to policy development and risk
37 analysis, and identifies and reports on emerging
38 money laundering and terrorist financing trends
39 and methods.

40 Canada participates in FATF by regularly
41 attending plenary and working group meetings;
42 contributing to the development of policy,
43 guidance, and typology reports; providing
44 assessors and reviewers for peer reviews in other
45 member countries; participating in joint regional
46 review groups to monitor compliance of high-risk
47 jurisdictions; and supporting capacity building

1 of the global network.

2 Following every FATF Plenary meeting,
3 FINTRAC issues an advisory to reporting entities
4 to inform them of the FATF decisions with respect
5 to countries that pose a risk to the
6 international financial system.

7 Participation in the FATF Style Regional
8 Bodies also further allows Canada to monitor,
9 influence, and support the AML/ATF activities and
10 efforts of member countries in regions of
11 strategic interest to Canada.

12 Canada works in close cooperation with
13 regional bodies, such as the Caribbean Financial
14 Action Task Force, where Canada is a Co-operating
15 and Supporting Nation, and the Asia/Pacific Group
16 on Money Laundering, where Canada is a full
17 member. Canada also provides substantial
18 financial support and expert contributions in
19 technical assistance to these groups through
20 partnerships with federal departments and
21 agencies.

22 In 2002, FINTRAC became a member of the
23 Egmont Group. Comprised of financial
24 intelligence units from 164 jurisdictions, the
25 Egmont Group's goals are to foster communication
26 and improve the exchange of information,
27 intelligence, and expertise among the global
28 network of financial intelligence units in
29 support of member countries' AML/ATF regimes.

30 As Canada's financial intelligence unit,
31 FINTRAC works with foreign intelligence units to
32 protect Canadians and the integrity of Canada's
33 financial system. Through over 100 bilateral
34 agreements, FINTRAC is able to disclose financial
35 intelligence to these units worldwide when the
36 appropriate threshold is met. At the same time,
37 financial intelligence units are able to share
38 their information with FINTRAC, which broadens
39 its analyses of international financial
40 transactions.

41 Canada also provides technical assistance
42 and shares expertise with foreign financial
43 intelligence units, helping to enhance global
44 knowledge of money laundering and terrorism
45 financing issues and to strengthen international
46 compliance and financial intelligence operations.

47 In the law enforcement realm, the RCMP

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1 regularly contributes resources and expertise to
2 international investigations, through its working
3 relationships with the FBI, UK's National Crime
4 Agency, Europol, and other international police
5 agencies.

6 Along with regular bilateral engagement, the
7 RCMP also continues to be a strong partner on the
8 Five Eyes Law Enforcement Group Money Laundering
9 Working Group and shares information with our
10 Five Eyes partners on suspects and typologies
11 involved in international money laundering.
12 Beginning in March of 2020, the RCMP will
13 actually chair this working group.

14 Canada also provides training, equipment,
15 and technical and legal assistance to help
16 countries develop capacity and frameworks to
17 strengthen their AML/ATF frameworks. And that
18 work is described in paragraphs 133 to 135, which
19 I will leave for your reference.

20 So Canada's AML/ATF Regime and the financial
21 intelligence generated by FINTRAC have
22 contributed to combatting financial crimes and
23 efforts by law enforcement across the country to
24 combat organized crime and keep Canadians safe.

25 For example, the Toronto Police Service's
26 Major Project Section of the Integrated Gun and
27 Gang Task Force recognized the value of FINTRAC's
28 financial intelligence in *Project Patton*, a nine-
29 month investigation focused on the criminal
30 street gang, "The Five Point Generalz."
31 Following the execution of 53 search warrants,
32 more than a thousand charges were laid against 75
33 individuals, 78 firearms were seized, and
34 1.2 million of fentanyl, carfentanil, cocaine and
35 heroin was taken off the streets of Toronto and
36 other Canadian communities.

37 The CRA recognized the value of FINTRAC's
38 financial intelligence in *Projet Collecteur*, a
39 joint investigation with the RCMP that targeted a
40 money laundering and tax evasion scheme in the
41 Greater Montreal and Toronto areas. Charges were
42 laid against 17 individuals, including laundering
43 the proceeds of crime, and 10.9 million in drugs
44 and proceeds of crimes were seized, as were
45 several properties with an estimated value of
46 22 million. A legislative amendment made to the
47 *Criminal Code* in 2010 allowed for the restraint

1 of property in this case.

2 The Ontario Provincial Police recognized the
3 value of FINTRAC's financial intelligence to
4 *Project HOPE*, an intercontinental investigation
5 that netted the largest single drug seizure in
6 OPP history. 1,062 kilograms of pure cocaine,
7 with the street value of approximately
8 250 million, was seized. Three individuals were
9 charged with the importation of cocaine and
10 possession of cocaine for the purpose of
11 trafficking.

12 In November 2019, the Alberta Law
13 Enforcement Response Teams recognized FINTRAC's
14 contribution to *Project Coyote*, a two-year
15 international investigation that led to Canada's
16 largest seizure of fentanyl -- 250,000
17 pills -- and 81 kilograms of cocaine. In total,
18 15 million worth of drugs, over 4.5 million in
19 cash and assets, and 13 firearms were seized by
20 police. Seven people face more than 77 charges,
21 including laundering the proceeds of crime.

22 While Canada's domestic and international
23 AML/ATF efforts are producing real and meaningful
24 results for Canadians, there is no question that
25 we are facing a challenging environment. This is
26 not unique to Canada. Some of the challenges
27 include:

28
29 - The global banking system and
30 transnational nature of money flows have
31 become increasingly complex and
32 sophisticated;

33
34 - Technology has brought new and evolving
35 challenges such as anonymity, speed, and
36 much larger volumes of transactions;

37
38 - Cash transactions are being replaced by
39 other negotiable instruments, including the
40 use of electronic and digital means;

41
42 - The use of trade financing and the
43 international trade system as a means to
44 move value and illicit proceeds around the
45 globe through trade-based money laundering
46 techniques;

47

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1 - Criminal organizations, hostile state
2 actors, and terrorist groups have become
3 more adept at using the financial systems to
4 achieve their goals;

5
6 - and new and emerging technologies are
7 adopted quickly by criminal organizations
8 and individuals.

9
10 The increasing complexity of money
11 laundering and terrorist financing schemes and
12 the use of technology by criminals has imposed
13 unprecedented demands not only on law enforcement
14 but the whole of government to adapt and
15 modernize capacity, to develop new expertise, and
16 to revise legislation, policies, and regulations
17 that may be outdated. These challenges are
18 common throughout the world and we have to meet
19 them head on.

20 Canada's AML/ATF Regime can only do this
21 effectively by working together and sharing
22 information and best practices so that we can
23 stay ahead of the criminals and hostile actors
24 who are always looking for new ways to exploit
25 our financial system to launder their proceeds
26 from large-scale fraud, trafficking, and
27 corruption.

28 Canada's Regime is regularly reviewed by
29 Parliament and international peers to ensure it
30 remains effective and aligned to international
31 standards and best practices. These independent
32 reviews provide assurance and understanding of
33 the strengths of the Regime and guide the
34 government in targeting its ongoing efforts to
35 further reinforce the Regime to close gaps and
36 meet new threats.

37 Canada underwent a peer review by FATF in
38 2016, and this evaluation found that Canada has a
39 comprehensive AML/ATF Regime that is largely
40 effective, with appropriate legislation and
41 regulations. It noted that Canada has a good
42 understanding of the risks; effective cooperation
43 of government bodies at both the policy and
44 operational levels; effective supervision of
45 reporting entities; and effective measures in
46 place for preventing terrorists from raising,
47 using, and moving funds.

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1 At the same time, FATF identified several
2 areas where action should be taken to strengthen
3 the overall effectiveness of the Regime:
4 improving the availability of accurate beneficial
5 ownership information to be used by relevant
6 authorities; including coverage of the legal
7 profession under the Regime; and increasing the
8 number of money laundering investigations and
9 prosecutions, in particular relating to complex
10 schemes involving professional money launderers.
11 In addition, the report found that Canada's
12 AML/ATF framework could be strengthened by
13 expanding the scope of legislation to other types
14 of businesses and sectors, and to apply new
15 obligations to the designated non-financial
16 businesses and professions sector in relation to
17 politically exposed persons, heads of
18 international organizations, and beneficial
19 ownership requirements.

20 Every five years, a Parliamentary committee
21 conducts a statutory review of the *PCMLTFA*. In
22 February 2018, the House of Commons Standing
23 Committee on Finance, or FINA, launched the most
24 recent review. To support the Committee's work,
25 the Department of Finance issued a discussion
26 paper seeking feedback from Canadians on areas of
27 vulnerability in Canada's AML/ATF Regime,
28 including those identified by the FATF.

29 THE COMMISSIONER: In the *Federation* case, which dealt
30 with the issue of whether lawyers should be part
31 of the reporting regime to FINTRAC, after
32 striking down the legislation, the court, as I
33 recall, suggested that a modified scheme might be
34 put in place to deal with the issue of lawyers
35 reporting so that the scheme in effect would
36 protect the solicitor-client privilege and avoid
37 any derivative use. But it seemed to be an
38 invitation to the federal government to consider
39 modification of the legislation to meet the
40 constitutional standard.

41 Has there been any discussion about that
42 that you're aware?

43 MS. HOFFMAN: Certainly the federal government is in
44 discussion with the Federation of Law Societies,
45 and there is ongoing dialogue in that regard.
46 Again, I'm sure that your Commission counsel will
47 ask questions of Canada in that regard.

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1 THE COMMISSIONER: Right.

2 MS. HOFFMAN: And you will no doubt hear more about
3 that. At this point in time, I'm not able to
4 provide you --

5 THE COMMISSIONER: No.

6 MS. HOFFMAN: -- more detail.

7 THE COMMISSIONER: No, no, fair enough. Again, I'm
8 more alerting you to things that --

9 MS. HOFFMAN: Yes.

10 THE COMMISSIONER: -- might crop up during the course
11 of the Commission.

12 MS. HOFFMAN: And that is certainly very helpful.

13 THE COMMISSIONER: All right. Thank you.

14 MS. HOFFMAN: So in its -- and I'm speaking here about
15 the review that is done of the *PCMLTFA*. And in
16 its final report tabled in November 2018, the
17 House of Commons Standing Committee made 32
18 recommendations including: the creation of a
19 central beneficial ownership registry;
20 legislative changes to integrate the legal
21 profession into Canada's AML/ATF framework; the
22 implementation of a system for geographic/sector
23 targeting orders similar to those used in the
24 United States; the inclusion of new types of
25 businesses under the *PCMLTFA* such as white-label
26 ATMs, armoured car services, mortgage insurers,
27 land registry and title insurers, and luxury
28 goods dealers; and requirements for all
29 businesses subject to the *PCMLTFA* to identify
30 beneficial ownership and determine whether their
31 clients are politically exposed persons. In
32 strengthening the Regime, the Government
33 continues to assess the full set of
34 recommendations, including to take into account
35 regulatory burden on businesses and implications
36 for the privacy and *Charter* rights of Canadians.

37 Canada has already begun to take some
38 important steps to address the most pressing
39 vulnerabilities in our Regime. The stakeholders
40 that make up Canada's Regime are engaged in a
41 number of ongoing initiatives designed to fill
42 existing gaps and enforcement, and to improve the
43 capacity of agencies to respond to new and
44 emerging money laundering and terrorist financing
45 threats.

46 One of these is improving beneficial
47 ownership transparency. Since 2016, the

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1 Government of Canada has been working with
2 provinces and territories to advance a national
3 approach to strengthening beneficial ownership
4 transparency. In order to safeguard against
5 corporations being misused to launder money and
6 hide ownership of assets, like real estate,
7 authorities need to know who owns and controls
8 corporations.

9 In December 2017, Canada's Finance Ministers
10 agreed in principle to pursue legislative
11 amendments in their jurisdictions that would
12 require corporations to keep up-to-date records
13 of their beneficial owners that are available to
14 law enforcement and tax authorities, and to
15 eliminate the use of bearer shares. The
16 ministers agreed to make best efforts to complete
17 these amendments by July of 2019.

18 A series of legislative amendments to the
19 *Canada Business Corporations Act* were completed
20 and came into force in June of 2019 to fulfill
21 this commitment at the federal level. You heard
22 from Ms. Hughes about the Province's legislation
23 that they have put in place.

24 The Government is now taking the next steps
25 needed to further strengthen corporate ownership
26 transparency. In June 2019, several of Canada's
27 ministers of finance and ministers responsible
28 for AML and beneficial ownership transparency met
29 and agreed to cooperate to initiate consultations
30 on a public beneficial ownership registry.
31 Ministers reaffirmed their commitment to protect
32 the integrity of the Canadian economy by
33 improving beneficial ownership transparency in a
34 way that balances transparency and privacy
35 safeguards while ensuring effective access for
36 law enforcement, tax and other authorities, and
37 maintaining the ease of doing business in Canada.

38 On February 13th, 2020, Innovation, Science
39 and Economic Development and the Department of
40 Finance initiated consultations on creating a
41 publicly accessible registry of beneficial
42 ownership. Provinces and territories have been
43 invited and encouraged to participate in cross-
44 country consultations with Canadians. British
45 Columbia and Quebec have already moved ahead to
46 initiate consultations on requiring corporations
47 to disclose beneficial ownership information to

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1 government corporate registries and making this
2 information public.

3 The results of these consultations will
4 support the development of recommendations at the
5 federal, provincial, and territorial levels for a
6 path forward on strengthening corporate
7 transparency in Canada.

8 The Government of Canada acknowledges the
9 risk that the absence of AML/ATF obligations on
10 members of the legal profession can pose to the
11 effectiveness of the Regime and to the integrity
12 of the financial system. FATF found that
13 criminals seek out the involvement of legal
14 professionals in their money laundering and
15 terrorist financing activities. It is the
16 financial services offered by lawyers that make
17 them the gatekeepers to the financial system and
18 that make them the most vulnerable. In addition
19 to conducting wire transfers, issuing cheques,
20 and accepting cash, these services include
21 establishing trust accounts, forming and managing
22 corporations and legal trusts, and carrying real
23 estates and securities-related transactions.

24 The inclusion of the legal profession in
25 Canada's AML/ATF Regime is important to the
26 objective of detecting and deterring money
27 laundering and terrorist financing. It is
28 important that financial intermediaries, such as
29 lawyers, take measures to ensure that they are
30 not unwittingly used to launder money or to
31 finance terrorism.

32 The Department of Finance and the Federation
33 of Law Societies of Canada established a working
34 group in 2019 to explore issues related to money
35 laundering and terrorist financing, in order to
36 address the inherent risks of money laundering
37 and other illicit activity that may arise in the
38 practice of law and to strengthen information
39 sharing between the law societies and the
40 Government of Canada.

41 The working group has met twice to discuss
42 trends and typologies on money laundering in the
43 legal profession as well as a discussion on law
44 society supervisory and audit functions.

45 Ms. Hughes went over the B.C. Ad Hoc Working
46 Group on Money Laundering and Real Estate, which
47 we also describe in our submissions at paragraphs

1 161 to 163. So I'll just leave those paragraphs
2 for your reference.

3 In June 2019, the Government of Canada
4 finalized a series of amendments to the *PCMLTFA*
5 regulations to address weaknesses in the
6 framework with regard to the regulation of online
7 casinos, due diligence requirements for domestic
8 politically exposed persons, virtual currency and
9 prepaid payment products, and the risk assessment
10 of new technologies.

11 These amendments will designate businesses
12 dealing in virtual currency as money services
13 businesses and will expand the scope of the
14 regulations to include foreign money services
15 businesses, for example, online platforms with no
16 physical presence in Canada. These legislative
17 provisions come into force in June 2020 and the
18 full suite of regulatory obligations in June
19 2021.

20 The Government of Canada continues to
21 strengthen Canada's regulatory framework to
22 address priority recommendations of both the FINA
23 and FATF reviews. FINA is the House of Commons
24 Standing Committee. On February 14th, 2020, the
25 Department of Finance published proposed
26 amendments to the *PCMLTFA* regulations for
27 consultation, which aim to enhance customer due
28 diligence by requiring designated non-financial
29 businesses and professions, for example real
30 estate brokers, to take enhanced identification
31 measures, such as obtaining beneficial ownership
32 information and screening for politically exposed
33 persons. The proposed regulations also aim to
34 align record-keeping obligations for businesses
35 dealing in virtual currencies and customer due
36 diligence measures for casinos with international
37 standards.

38 The Government of Canada's Budget 2019 also
39 announced legislative amendments to modernize
40 Canada's AML/ATF Regime, such as the addition of
41 recklessness to the offence of money laundering
42 in section 462.31 of the *Criminal Code*. This
43 criminalizes the activity of moving money on
44 behalf of another person or organization while
45 being reckless to the risk that this activity
46 could be laundering the proceeds of crime. This
47 is an important tool to improve the ability to

1 investigate and prosecute professional money
2 launderers associated with organized crime.

3 In addition to these legislative changes,
4 Budget 2019 also announced an integrated set of
5 measures to strengthen intelligence and
6 enforcement capacity across Canada's AML/ATF
7 Regime.

8 Money laundering investigations are often
9 lengthy and complex endeavours, necessitating
10 large teams to conduct surveillance, recruit
11 confidential informants; obtain reasonable
12 grounds for various judicial authorizations such
13 as wiretaps and production orders for bank
14 records; listen to and transcribe communication
15 intercepts; and review, analyze and collate vast
16 amounts of information and prepare disclosure for
17 Crown.

18 The Government of Canada recognizes the
19 capacity of law enforcement, Crown counsel, and
20 the courts must be commensurate with the demands
21 placed upon them to investigate and successfully
22 prosecute money laundering and terrorist
23 financing offences.

24 In recognition of the complexity of money
25 laundering investigations, and the need to
26 strengthen federal policing capacity, Budget 2019
27 announced 68.9 million over five years and
28 20 million in ongoing funding for enhanced police
29 capacity, including to fight money laundering.
30 Subsequent to Budget 2019, Ministers Morneau and
31 Blair announced an additional 10 million for the
32 RCMP to invest in information technology
33 infrastructure and digital tools to pursue
34 complex financial crimes.

35 Budget 2019 also created four dedicated real
36 estate audit teams through the provision of
37 50 million over five years to the CRA.

38 Finally, Budget 2019 provided additional
39 funding to FINTRAC, which is being used to
40 strengthen compliance functions in relation to
41 virtual currencies, foreign money service
42 businesses, and customer identification. With
43 this new funding, FINTRAC is also increasing
44 their outreach and examinations in the real
45 estate and casino sectors with a focus on the
46 province of British Columbia.

47 There is no doubt that criminal elements

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1 will continue to attempt to exploit the cracks in
2 Canada's AML/ATF infrastructure. Canada is
3 currently seeking to improve federal leadership
4 and coordination of the AML/ATF Regime through a
5 number of initiatives that aim to improve the
6 efficiency of information exchange, expertise and
7 coordination among public and private entities.

8 I introduced you to the ACE Team earlier on
9 in my submissions, which is bringing together
10 dedicated experts from across intelligence and
11 enforcement agencies to strengthen interagency
12 coordination and cooperation and identify and
13 address significant money laundering and
14 financial crime threats.

15 The ACE Team includes employees seconded
16 from FINTRAC, RCMP, CRA, the Public Prosecution
17 Service, OSFI, and Public Safety -- sorry, PSPC
18 is not Public Prosecution Service. That's -- I'm
19 losing track of my acronyms now -- that's, yes,
20 Public Procurement -- OSFI, and Public Safety.
21 The ACE Team's mission is to effectively
22 coordinate and support interagency efforts to
23 counter money laundering in Canada, through:

- 24
- 25 - Supporting alignment of horizontal
 - 26 operational AML priorities;
 - 27
 - 28 - Improving the sharing of information,
 - 29 knowledge, and expertise;
 - 30
 - 31 - Identifying and supporting significant
 - 32 money laundering investigations; and,
 - 33
 - 34 - Maximizing the use of public-private
 - 35 partnerships to identify AML threats and red
 - 36 flags.
 - 37

38 The ACE Team is currently reviewing AML
39 efforts across the country and internationally,
40 to inform the development of its operations model
41 and staffing plan. While the ACE Team's initial
42 focus is at the federal level, it is also seeking
43 opportunities for greater federal, provincial,
44 territorial, and municipal cooperation, including
45 by exploring options to expand the initiative
46 over the long term to include the private sector
47 and provincial, territorial, or municipal

1 enforcement or prosecution authorities.

2 The ACE Team is expected to become
3 operational in 2021 and will provide interagency
4 coordination and support to AML investigations
5 and prosecutions across the country.

6 The Money Laundering Banker's Contact Group,
7 or MLCG, is a public-private partnership whose
8 members include the RCMP, financial institutions,
9 and FINTRAC. The MLCG is pursuing opportunities
10 to share information within Canada's lawful
11 information sharing framework.

12 MLCG partners seek to work together to
13 improve their collective understanding of money
14 laundering threats. They also work together to
15 clarify priorities, targeting and interventions,
16 as well as to identify the benefits of, and
17 obstacles to, information sharing amongst key
18 Canadian AML/ATF Regime stakeholders.

19 The MLCG meets quarterly to provide
20 government and private sector participants with a
21 forum to exchange information on money laundering
22 trends. The partners seek a common understanding
23 of pressing issues and priorities, identify
24 challenges to cooperation, and work
25 collaboratively to strengthen the resilience of
26 Canada's financial system.

27 Budget 2019 also announced 28 million over
28 five years and 10 million in ongoing funding to
29 create a Trade-Based Money Laundering Centre of
30 Expertise, which will complement the work of the
31 ACE Team.

32 And this centre is expected to be
33 operational by April of 2020 and will bring
34 together CBSA experts in both National
35 Headquarters and regional offices across Canada
36 to improve the CBSA's ability to identify and
37 investigate the customs trade fraud offences that
38 allow trade-based money laundering to occur.

39 The centre will also generate increased
40 intelligence and investigative referrals to the
41 ACE Team and the RCMP when trade-based money
42 laundering is suspected. This initiative is also
43 expected to result in increased CBSA referrals to
44 other government departments, such as the CRA,
45 for related offences such as tax evasion.

46 This initiative will therefore support whole
47 of government efforts to enhance the safety and

1 security of Canadians, and the protection of the
2 integrity of Canada's financial and trade
3 systems.

4 In recognition of the pivotal role of legal
5 information exchange in the effective operation
6 of the Regime, the federal government is working
7 to strengthen new and existing partnerships
8 across the public and private sectors.

9 CFSEU-BC, the Combined Forces Special
10 Enforcement Unit, recently launched *Project*
11 *Athena*, a public-private partnership between
12 domestic law enforcement agencies, financial
13 institutions, casinos, and federal and provincial
14 government bodies such as FINTRAC.

15 *Project Athena* was modelled after other
16 successful public-private partnerships such as
17 *Project Protect*, *Project Guardian*, and *Project*
18 *Chameleon*, which are aimed at more effectively
19 combatting money laundering associated with human
20 trafficking in the sex trade, romance fraud, and
21 the trafficking of illicit fentanyl.

22 The objectives of the project are threefold:
23 to improve collective understanding of money
24 laundering threats; to inform and strengthen
25 financial systems and controls; and to disrupt
26 money laundering activity.

27 *Project Athena* began in 2018, following the
28 implementation of source of funds declarations at
29 B.C. casinos. At that time, JIGIT and the
30 Combined Forces Special Unit sought information
31 from BCLC to launch a bank draft intelligence
32 probe, with the aim to understand the use of bank
33 drafts by those seeking to launder proceeds of
34 crime and to assess the effectiveness of source
35 of funds declarations in British Columbia
36 casinos. Ultimately, the bank draft intelligence
37 probe identified a number of deficiencies and
38 misrepresentations in the completion of source of
39 funds declarations.

40 As a result, law enforcement, BCLC, GPEB,
41 and a number of financial institutions met for a
42 bank draft stakeholders meeting. At this
43 inaugural meeting, JIGIT shared the money
44 laundering methodology they had observed in
45 British Columbia casinos and provided information
46 garnered from the bank draft intelligence probe,
47 leading some financial institutions to change

1 their internal processes for identifying clients
2 on bank drafts. By engaging multiple
3 stakeholders through lawful information sharing,
4 systemic changes were thereby achieved.

5 Based on this initial success, *Project*
6 *Athena* has evolved into a nationally scaled
7 public-private partnership that will link with a
8 formal governance structure for private-public
9 partnerships which includes an Executive Steering
10 Committee.

11 *Project Athena* meetings now provide an
12 important forum for strategic level, lawful
13 sharing information between core stakeholders
14 including law enforcement, FINTRAC, and key
15 financial institutions. On December 10th, 2019,
16 FINTRAC issued its first *Project Athena*
17 Operational Alert, titled "Laundering the
18 proceeds of crime through a casino-related
19 underground banking scheme."

20 As Canada seeks to strengthen the Regime,
21 the federal government has renewed its commitment
22 to transparency, accountability, and public
23 outreach in AML/ATF initiatives. The Government
24 of Canada is focused on sharing more information
25 with Canadian businesses, with an eye to ensuring
26 that they understand and are able to fulfill the
27 obligations that are so critical to our financial
28 intelligence mandate.

29 As previously mentioned, as part of this
30 broader transparency initiative, FINTRAC has
31 published its Compliance Framework and its
32 Assessment Manual, which outlines clearly and
33 transparently FINTRAC's new method of calculating
34 penalties for non-compliance. No other AML/ATF
35 regulator in the world has done this.

36 Canada understands that regulatory burden is
37 a key concern to the private sector, and that it
38 is important to strike a balance between
39 capturing financial activity that poses money
40 laundering or terrorist financing risks, and the
41 amount of resources, either public or private,
42 that are needed to comply with obligations and
43 analyze that activity. FINTRAC has engaged
44 extensively with businesses in revising its
45 suspicious transaction reporting guidance to make
46 it clearer, more concise and tailored to each
47 reporting sector.

1 FINTRAC has also recently provided
2 businesses with strategic financial intelligence
3 to support them with their risk assessments and
4 in fulfilling their reporting obligations,
5 including the December 2019 Operational Alert
6 entitled "Professional money laundering through
7 trade and money services businesses" and the
8 "Terrorist Financing Assessment," which assists
9 businesses in better identifying and reporting
10 suspected terrorist activity financing.

11 Canada's commitment to sharing more with
12 Canadian businesses was recently recognized by
13 the Community of Federal Regulators, which
14 presented FINTRAC with an award for Excellence in
15 Regulatory Openness and Transparency.

16 The next section we speak of the cooperation
17 between provinces and territories. And while
18 Canada's Regime as a whole is a federal
19 responsibility, stemming from the criminal law
20 power, there are many areas with shared
21 jurisdiction and responsibilities with provinces
22 and territories. And all levels of government
23 can do more to combat money laundering and
24 terrorist financing in Canada.

25 Federal, provincial, and territorial
26 governments share jurisdiction over
27 incorporation, with approximately 10 per cent of
28 corporations in Canada established under the
29 federal *Canada Business Corporations Act*.
30 Provinces and territories have jurisdiction over
31 incorporation of trusts, partnerships, and
32 companies with provincial objects, which can also
33 be misused for money laundering and other
34 criminal purposes.

35 And the following paragraphs, 201 to 204,
36 provide more detail of that shared jurisdiction,
37 which I will leave for your reference and move to
38 Canada's vision for this Commission.

39 This Commission represents an important
40 opportunity to engage members of the Canadian
41 public and key stakeholders on how governments
42 can better combat money laundering in Canada.

43 The crime of money laundering is complex,
44 perpetrated by sophisticated criminals using
45 elaborate methods. The money can and does come
46 from crimes committed anywhere in the world, with
47 Canada's experience only part of a chain of

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1 events. The solutions are similarly complex.
2 Coordinated provincial and federal government
3 action is required across legal, technological,
4 and regulatory spheres in order to fight this
5 problem.

6 The Government recognizes that any measures
7 to enhance Canada's AML/ATF framework must also
8 seek to strike an appropriate balance among
9 sometimes competing objectives.

10 For example, the need to improve information
11 sharing and provide timely and actionable
12 intelligence to law enforcement agencies must be
13 balanced against the imperative of protecting the
14 privacy and *Charter* rights of Canadians.

15 However, robust and comprehensive preventative
16 measures to combat money laundering and terrorist
17 financing must not place an undue burden on
18 reporting entities, which are on the frontlines
19 of the fight against money laundering and
20 terrorist financing.

21 Canada trusts that the work of the
22 Commission will support Canada's ongoing AML/ATF
23 initiatives by providing further insights into
24 the extent, growth, and evolution of money
25 laundering in British Columbia, including new
26 money laundering typologies and emerging areas of
27 vulnerability.

28 Canada also hopes that the Commission will
29 facilitate a better understanding of the current
30 AML/ATF landscape in British Columbia and
31 identify additional regulatory or enforcement
32 measures that the province can take within its
33 areas of jurisdiction to bolster Canada's
34 defences against money laundering and terrorist
35 financing.

36 In particular, Canada believes that the
37 Commission can make a valuable contribution to
38 bolstering Canada's defences by investigating and
39 providing recommendations that the province can
40 take within its areas of jurisdiction as to:

41
42 - The effective use of public-private
43 partnerships to enhance the prevention,
44 detection, and investigation of money
45 laundering and terrorist financing offences;

46
47 - Creative ways to facilitate legal

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1 information sharing and knowledge exchange
2 between all stakeholders across the Regime;

3
4 - Lessons learned from the practices and
5 processes used by international agencies in
6 the enforcement, prosecution and
7 investigation of money laundering;

8
9 - The identification of further risk-based
10 approaches to AML/ATF and proactive measures
11 to get ahead of new and emerging areas of
12 vulnerability; and,

13
14 - Other efforts and initiatives that could
15 be pursued by the Province of British
16 Columbia, supported by the Government of
17 Canada, to make the province an undesirable
18 place to launder the proceeds of crime.

19
20 Canada supports B.C.'s renewed commitment to
21 combatting money laundering and terrorist
22 financing in the province and looks forward to
23 engaging with other public institutions, private
24 stakeholders and everyday Canadians throughout the
25 Inquiry on the best way forward.

26 The Commission's work is of great importance
27 to all Canadians, and Canada is committed to
28 working with the Commission as it addresses the
29 issues set out in its mandate. Canada will
30 continue to participate in the Inquiry to the
31 fullest extent possible and we are confident that
32 by working together, we will gain an even greater
33 understanding of how to tackle these important and
34 complex issues.

35 THE COMMISSIONER: Thank you very much, Ms. Hoffman.
36 You may recall I asked Ms. Hughes about the
37 province's approach to the issue of
38 quantification. The Commission, as you probably
39 are aware, will be addressing that issue in the
40 first segment of its hearings in the spring of
41 2020. And I think there are suggestions out
42 there, and we may very well hear in evidence,
43 that the issue of quantification is a very
44 elusive one, and understandably so because it's a
45 very secretive process.

46 But the Commission has determined it's
47 important to at least address the issue of

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1 quantification for a number of different reasons,
2 not the least of which is to try and identify the
3 sectors or areas in British Columbia that are
4 most affected by money laundering, and that's a
5 function of the extent to which it may invade
6 that sector or area.

7 Does Canada have a particular approach that
8 it would urge upon the Commission to adopt in
9 addressing the issue of quantification? And
10 again, I'm not looking for an answer today. I'm
11 just alerting you to the fact that we may be
12 asking various of the parties to assist us in
13 certain areas. So I simply put that out there so
14 that you can consider it. And if you have any
15 preliminary response, fine. But if not, it's
16 something I want to put on your radar for the
17 upcoming hearings.

18 MS. HOFFMAN: Certainly that is a very, very difficult
19 task, and I think elusive is a very appropriate
20 way to describe that. We will certainly seek
21 instructions on what we may be able to add to
22 that.

23 THE COMMISSIONER: Thank you. And finally, are there
24 any areas -- you've set out a number of different
25 areas in your pages 51 and 52 in your submissions
26 that you submit or suggest that the Commission
27 should pay heed to. Are there any other areas
28 that you think we should be looking at that
29 haven't so far been identified, any new areas
30 such as cryptocurrency or anything like that? Do
31 you have any suggestions for the Commission as to
32 what your top four or five areas of inquiry
33 should be?

34 MS. HOFFMAN: Again, I represent a number of
35 government departments, and that would be a
36 question that I would have to take back to them,
37 and we can certainly do that. And we will note
38 that question and raise that with our client
39 departments.

40 THE COMMISSIONER: And similarly, if there are any
41 areas you don't think would be particularly
42 fruitful for Commission to pursue.

43 MS. HOFFMAN: Thank you very much.

44 THE COMMISSIONER: Thank you. Thank you for your
45 efforts.

46 Mr. Martland, I think we could get started
47 on the next matter. We have 15 minutes. So why

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1 don't we do that.

2 MR. MARTLAND: The Law Society is next [indiscernible
3 - not near microphone].

4 THE COMMISSIONER: Ms. Herbst from the Law Society.

5 MS. HERBST: Thank you, Mr. Commissioner.

6

7 OPENING STATEMENT BY MS. HERBST (LAW SOCIETY OF
8 BRITISH COLUMBIA):

9

10 MS. HERBST: The Law Society of British Columbia has a
11 long and active history of engagement and
12 innovation in addressing money laundering in this
13 province. The Law Society's involvement has
14 included rule-setting and enforcement, law firm
15 audits, investigation and discipline, education
16 of the legal profession, and collaboration with
17 other agencies that also play a role in
18 combatting money laundering. The Law Society
19 works to minimize the risk that lawyers might,
20 knowingly or unknowingly, have any involvement in
21 money laundering.

22 The standard for lawyers is clear. Lawyers
23 must never engage in activity that they know or
24 ought to know is connected in any way with money
25 laundering. If a lawyer knows or ought to know
26 that money laundering is occurring, he or she
27 must immediately cease acting. A rigorous set of
28 rules and other anti-money laundering
29 measures -- and I'll use the AML abbreviation
30 throughout -- are in place setting out the high
31 standard of conduct that lawyers are expected to
32 meet.

33 Of course, the Law Society is one of many
34 organizations participating in the fight against
35 money laundering. All bring to the table
36 different powers and perspectives, and face
37 different constraints. The Law Society can do
38 things that governments cannot in order to
39 advance AML objectives; it has investigative
40 powers and remedies that extend beyond those
41 available to the government. However, the Law
42 Society also has protocols in place by which it
43 can refer to the police those matters that
44 require police investigation.

45 The Law Society sought out and welcomes the
46 opportunity to participate in this inquiry
47 because it has much to bring to the fight that is

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1 our common cause. It is one of the entities
2 within society that has rolled up its sleeves to
3 tackle this issue. It wants to ensure its
4 efforts are as effective as possible, both
5 independently and as part of a collective whole.

6 Today, in this opening, I take the
7 opportunity to address several elements of what
8 the Law Society is and what it does in the AML
9 fight, and the constitutional and statutory
10 framework within which its work is undertaken.

11 My comments are organized under a few
12 topics. One, firstly, a brief overview of the
13 Law Society. Second, AML as an aspect of the Law
14 Society's mandate. Then, as part of the backdrop
15 in terms of analyzing what can or should be done
16 in terms of AML, the public interest in
17 safeguarding clients' rights to committed and
18 confidential representation. Then, addressing
19 potential money laundering work while respecting
20 clients' rights and the particular statutory
21 means that are available to the Law Society to do
22 that. Next, a more broad overview of the Law
23 Society's AML work. And rounding off with the
24 opportunities that we say are created by this
25 inquiry and that this inquiry can advance.

26 So, particularly for the non-lawyers who are
27 in the audience, what is the Law Society? The
28 Law Society is a non-profit society that was
29 established in this province about 135 years ago.
30 Today it is a dynamic organization with about 225
31 staff, governed by a board of both elected lawyer
32 benchers and appointed benchers who are members
33 of the public.

34 All lawyers called to the bar of British
35 Columbia are regulated by the Law Society. The
36 oath that all lawyers must take to gain admission
37 includes a pledge to conduct themselves in all
38 things with integrity, to uphold the rule of law,
39 and to uphold the rights and freedoms of all
40 persons in accordance with the laws of Canada and
41 the Province of British Columbia.

42 In order to practise law in British
43 Columbia, a lawyer must apply to the Law Society
44 and meet its high standards. The Law Society is
45 a gatekeeper and applicants must be of good
46 character and repute to become practising
47 lawyers.

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1 The role of the Law Society is not to
2 represent lawyers. Rather, its role is to uphold
3 and protect the public interest in the
4 administration of justice. To do that, it has
5 substantial investigative and disciplinary powers
6 that I'll come back to a bit later in the
7 opening.

8 The Law Society is both empowered by and
9 accountable under a longstanding provincial
10 statute, the *Legal Profession Act*. All that the
11 Law Society does must be seen through the lens of
12 the object and duty set out in section 3 of that
13 statute, and that section provides:

14 It is the object and duty of the society to
15 uphold and protect the public interest in
16 the administration of justice by:

- 17 - preserving and protecting the rights and
18 freedoms of all persons,
19 - ensuring the independence, integrity,
20 honour and competence of lawyers,
21 - establishing standards and programs for
22 the education, professional responsibility
23 and competence of lawyers and of applicants
24 for call and admission,
25 - regulating the practice of law, and
26 - supporting and assisting lawyers, articulated
27 students and lawyers of other jurisdictions
28 who are permitted to practice law in British
29 Columbia in fulfilling their duties in the
30 practice of law.

31 And all those have a component in the AML work
32 that the Law Society does.

33 The Law Society operates independently of
34 government and does not receive government
35 funding. The Law Society must uphold and protect
36 the public interest in the administration of
37 justice even as governments and their policies
38 and priorities change. Indeed, as I'll come back
39 to, lawyers have to be in a position always to
40 protect their clients' interests in disputes with
41
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45
46
47

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1 the state. The independence of the Bar from the
2 state is central to a free society governed by
3 the rule of law.

4 Now, against that backdrop of the Law
5 Society's mandate, AML is an important aspect of
6 ensuring and furthering it. Some of the matters
7 and activities in which lawyers are involved --
8 whether accepting retainers, being the
9 intermediary for funds paid in settlement of
10 litigation, or assisting clients navigate all
11 sorts of day-to-day matters, complex property
12 dealings, business transactions, family and
13 relationship matters, end-of-life concerns, and
14 so on -- involve the transmission of money.

15 Any segment of society that deals with money
16 is at risk of being used by dishonest people in
17 an attempt to launder money. Money laundering is
18 a kind of crime that touches on many different
19 sectors of society and utilizes many pathways.
20 The result is that -- as the Law Society has long
21 recognized -- lawyers may be at risk of
22 involvement in money laundering by virtue of the
23 types of work they do: perhaps most obviously,
24 creating corporations, charities and trusts;
25 working on cross-border transactions; and helping
26 to buy and sell real estate and other assets.

27 The Law Society's mandate includes working
28 to prevent lawyers from involvement in any
29 dishonesty, crime or fraud, by clients or by
30 anyone else. This includes money laundering.

31 The Law Society of course has detailed rules
32 that are set out by the benchers under the *Legal*
33 *Profession Act*, and those rules include a strict
34 enjoinder on lawyers:

35
36 If, in the course of obtaining the
37 information and taking the steps required to
38 identify a client, verify client identity,
39 monitor, or at any other time while retained
40 by a client, a lawyer knows or ought to know
41 that he or she is or would be assisting a
42 client in fraud or other illegal conduct,
43 the lawyer must withdraw from representation
44 of the client.

45
46 Further, along the same lines, the Code of
47 Professional Conduct for British Columbia

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1 provides: "A lawyer must not engage in any
2 activity that the lawyer knows or ought to know
3 assists in or encourages any dishonesty, crime or
4 fraud."

5 A lawyer is simply not permitted to proceed
6 in these circumstances. A lawyer's obligation is
7 to put an end to their involvement, not go on and
8 watch matters unfold. And as I'll come back to
9 in a few moments or after the lunch break, the
10 Law Society has substantial investigative and
11 remedial powers to enforce this prohibition.

12 Now, AML efforts in connection with clients
13 are done in a particular constitutional and
14 statutory framework, and I'll touch on this in
15 the next part of my remarks.

16 In particular, the public interest requires
17 that duties owed to clients be protected during
18 AML efforts. The administration of justice --
19 which, as I've said, the Law Society is tasked
20 with upholding and protecting -- requires
21 protecting clients' rights to confidential
22 dealings with committed legal counsel.

23 The Law Society was part of and notes here a
24 case that has already come up this morning, the
25 Supreme Court of Canada decision in *Canada*
26 *(Attorney General) v. Federation of Law Societies*
27 *of Canada*, which was decided in 2015 and set out
28 very important parameters that applied in the AML
29 context in particular the more general
30 constitutional framework and principles that
31 govern the work that lawyers do for clients.

32 The Supreme Court of Canada "has repeatedly
33 emphasized the important role that lawyers play
34 in ensuring access to justice and upholding the
35 rule of law." The "rule of law" means that the
36 laws of our province and country apply to
37 everyone, including government officials,
38 corporations and private citizens, no matter how
39 wealthy or powerful; laws are to be administered
40 and enforced equally and fairly; and citizens
41 must be able to stand up against the government
42 or other powerful interests without fear of
43 reprisal or retribution.

44 In this context, citizens need the ability
45 to obtain legal advice. As was said in the
46 Supreme Court of Canada case *McClure*:
47

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1 The law is a complex web of interests,
2 relationships and rules. The integrity of
3 the administration of justice depends upon
4 the unique role of the solicitor who
5 provides legal advice to clients within this
6 complex system. ...The important
7 relationship between a client and his or her
8 lawyer stretches beyond the parties and is
9 integral to the workings of the legal system
10 itself.

11
12 And secondly, citizens also need the ability to:

13
14 have the assistance of a lawyer whose duty
15 is to represent their clients' best
16 interests and who remains independent of the
17 state --

18
19 Picking up on one of the themes I touched on
20 before.

21
22 The independence of lawyers from the state,
23 which they need to be able to hold
24 accountable, is one of the hallmarks of a
25 free society. ...The public interest in a
26 free society knows no area more sensitive --

27
28 The courts have said.

29
30 -- than the independence, impartiality and
31 availability to the general public of the
32 members of the Bar and through those
33 members, legal advice and services
34 generally.

35
36 Along those lines as well, the Supreme Court
37 of Canada has said:

38
39 Lawyers are a vital conduit through which
40 citizens access the courts, and the law.
41 They help maintain the rule of law by
42 working to ensure that unlawful private and
43 unlawful state action in particular do not
44 go unaddressed. The role that lawyers play
45 in this regard is so important that the
46 right to counsel in some situations has been
47 given constitutional status.

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1
2 To exercise these functions, which are vital
3 to the administration of justice, lawyers need to
4 know from their clients the full story, and
5 clients need to know that their lawyer will be
6 committed to the client's cause. Of course,
7 clients may not like the advice they receive
8 after providing their lawyer with all the
9 details, but the client will be able to make
10 choices knowing where they stand and that the
11 lawyer has the client's interests first and
12 foremost in mind.

13 These concepts animated the Supreme Court of
14 Canada's 2015 decision in the *Federation of Law*
15 *Societies* case, which, as has been noted,
16 resulted in portions of the federal anti-money
17 laundering legislation being read down to exclude
18 its application to lawyers and law firms. The
19 court found that the state could not impose
20 duties on lawyers that interfered with the
21 obligations they owe to clients. In this regard,
22 two key duties that lawyers owe to clients have
23 been said to be "essential to the due
24 administration of justice" and were impacted by
25 the legislative scheme that was to advance AML at
26 the time.

27 First, lawyers "must keep their clients'
28 confidences." This duty against "misuse of the
29 client's confidential information" is "reflected
30 in solicitor-client privilege." This privilege,
31 which is that of the client and open only to the
32 client to waive, "is essential to the effective
33 operation of the legal system." As such, it
34 attracts constitutional protection.

35 Second, lawyers have a "duty of commitment
36 to the client's cause." This "is an enduring
37 principle that is essential to the integrity of
38 the administration of justice." In this regard,
39 a "client must be able to place 'unrestricted and
40 unbounded confidence' in his or her lawyer" which
41 "is at the core of the solicitor-client
42 relationship." As such, it is "a principle of
43 fundamental justice that the state cannot impose
44 duties on lawyers that undermine their duty of
45 commitment to their clients' causes." If clients
46 and the broader public lack confidence in
47 lawyers' commitment "to serving their clients'

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1 legitimate interests free of other obligations
2 that might interfere with that duty," "the
3 lawyer's ability to do so may be compromised and
4 the trust and confidence necessary for the
5 solicitor-client relationship may be undermined."

6 THE COMMISSIONER: Ms. Herbst, would this be an
7 appropriate time to break?

8 MS. HERBST: Absolutely, that would be fine.

9 THE COMMISSIONER: Thank you. We'll adjourn for lunch
10 and resume at 1:30.

11 MS. HERBST: Thank you.

12 THE REGISTRAR: Order. Please rise.

13

14 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

15 (PROCEEDINGS RECONVENED)

16

17 THE REGISTRAR: Order. Please rise.

18 THE COMMISSIONER: Yes, Ms. Herbst.

19 MS. HERBST: I had left off on page 7 of the opening,
20 for those who have a written copy, and at the end
21 of paragraph 23. So I'm now continuing with
22 paragraph 24.

23 THE COMMISSIONER: Yes.

24 MS. HERBST: And back to the context that the
25 *Federation of Law Societies* case forms for the
26 work that the Law Society does in the AML
27 context.

28 So because of these essential duties owed to
29 clients -- and those were duties of
30 confidentiality and committed representation --
31 certain AML measures in federal legislation that
32 could have the effect of turning lawyers into
33 state agents against their clients were found to
34 be unconstitutional. In the *Federation of Law*
35 *Societies* case, Justice Cromwell wrote for the
36 majority:

37

38 ...the [federal] legislation requires
39 lawyers to gather and retain considerably
40 more information than the profession thinks
41 is needed for ethical and effective client
42 representation. This, coupled with the
43 inadequate protection of solicitor-client
44 privilege, undermines the lawyer's ability
45 to comply with his or her duty of commitment
46 to the client's cause. The lawyer is
47 required to create and preserve records

1 which are not required for ethical and
2 effective representation. The lawyer is
3 required to do this in the knowledge that
4 any solicitor-client confidences contained
5 in these records are not adequately
6 protected against searches and seizures
7 authorized by the scheme. This may, in the
8 lawyer's correctly formed opinion, be
9 contrary to the client's legitimate
10 interests and therefore these duties imposed
11 by the scheme may directly conflict with the
12 lawyer's duty of committed representation.
13

14 Justice Cromwell continued:

15
16 I also conclude that a reasonable and
17 informed person, thinking the matter
18 through, would perceive that these
19 provisions in combination significantly
20 undermine the capacity of lawyers to provide
21 committed representation. The reasonable
22 and well-informed client would see his or
23 her lawyer being required by the state to
24 collect and retain information that, in the
25 view of the legal profession, is not
26 required for effective and ethical
27 representation and with respect to which
28 there are inadequate protections for
29 solicitor-client privilege. Clients would
30 thus reasonably perceive that lawyers were,
31 at least in part, acting on behalf of the
32 state in collecting and retaining this
33 information in circumstances in which
34 privileged information might well be
35 disclosed to the state without the client's
36 consent.
37

38 And again, as I'd noted before, privilege being
39 the client's only to waive.
40

41 This would reduce confidence to an
42 unacceptable degree in the lawyer's ability
43 to provide committed representation.
44

45 As part of its public interest mandate, the
46 Law Society must ensure that it defends from state
47 incursion the client rights that the court found

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1 to have been threatened in the *Federation of Law*
2 *Societies* case.

3 At the same time, the Law Society must work
4 firmly and vigorously to safeguard against a
5 situation in which a lawyer crosses the line
6 between fulfilling their obligations to the
7 client, and becoming the facilitator of the
8 client's illegal activities. The high standard
9 that the Law Society requires lawyers to meet in
10 its Rules of Conduct and Code of Conduct draws
11 that important line. As the majority said in the
12 *Federation of Law Societies* case:
13

14 Of course the duty of commitment to the
15 client's cause must not be confused with
16 being the client's dupe or accomplice. It
17 does not countenance a lawyer's involvement
18 in, or facilitation of, a client's illegal
19 activities. Committed representation does
20 not, for example, permit let alone require a
21 lawyer to assert claims that he or she knows
22 are unfounded or to present evidence that he
23 or she knows to be false or to help the
24 client to commit a crime. The duty is
25 perfectly consistent with the lawyer taking
26 appropriate steps with a view to ensuring
27 that his or her services are not being used
28 for improper ends.
29

30 And so against that backdrop, and given the
31 need to draw and enforce the line that I've just
32 set out, the Law Society has undertaken
33 considerable AML efforts, both through
34 application of its pre-existing powers and, in
35 many cases, through the development of new tools
36 to address these matters that fall within its
37 jurisdiction.

38 And I say this for the benefit of, in
39 particular, members of the audience who aren't
40 lawyers. No mistake should be made about this.
41 Lawyers are heavily regulated in this sector and
42 in others, to the point that they have to
43 withdraw from representation in certain
44 circumstances. It's just that, to protect
45 clients' rights, regulation comes in a different
46 form.

47 The Law Society's broad AML efforts are

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1 something that I'll come back to, by way of
2 overview at least, in a few moments. But for the
3 next few moments, I'll talk about a more specific
4 issue, and that's this: the fact that the
5 restrictions on state action, including in
6 relation to legislation, as noted in the
7 *Federation of Law Societies* case, don't apply in
8 the same way to the Law Society as they do to
9 government. And the Law Society recognizes, in
10 this regard, that its work has to fulfil a role
11 that government cannot.

12 Pursuant to the *Legal Profession Act* and the
13 Law Society Rules, the Law Society may request
14 information from lawyers; seek disclosure of
15 client files, banking records and other
16 materials; require persons -- including non-
17 lawyers -- to answer questions under oath or
18 affirmation; and conduct forensic audits of law
19 practices. Lawyers have to comply with Law
20 Society requirements or face serious discipline,
21 including suspension.

22 The information that comes to the Law
23 Society through use of its investigative powers
24 may be subject to solicitor-client privilege.
25 However, the *Legal Profession Act*, the provincial
26 statute, specifically provides that "[a] person
27 who is required under the Act or the [Law
28 Society] rules to provide [to the Law Society]
29 information, files or records that are
30 confidential or subject to a solicitor client
31 privilege must do so, despite the confidentiality
32 or privilege."

33 The provision of privileged information
34 specifically to the Law Society does not run
35 afoul of the principles set out in the *Federation*
36 *of Law Societies* case for several reasons.

37 First, unlike many investigative agencies
38 and tribunals, the Law Society is not government
39 or an arm of the state. The Law Society can
40 therefore investigate and regulate lawyer
41 activities while at the same time protecting the
42 interests of clients who seek out a lawyer's
43 advice, counsel, or assistance. Again, as a
44 result, the Law Society recognizes that in the
45 AML fight, its work fills a role that government
46 cannot.

47 Second, specifically pursuant to the *Legal*

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1 *Profession Act*, the provincial statute, as part
2 of its public interest mandate the Law Society
3 may audit and investigate the work of
4 lawyers -- including work subject to solicitor-
5 client privilege -- without any waiver of that
6 privilege. Thus s. 88 of the *Legal Profession*
7 *Act*, which pertains to audits and investigations
8 that the Law Society undertakes and disciplinary
9 proceedings that may flow from them, provides
10 that:

11 ...a person who, in the course of exercising
12 powers or carrying out duties under this
13 Act, acquires information, files or records
14 that are confidential or are subject to
15 solicitor-client privilege has the same
16 obligation respecting the disclosure of that
17 information as the person from whom the
18 information, files or records were obtained.
19

20
21 And it also provides that:

22 A person who, during the course of an
23 investigation, audit, inquiry or hearing
24 under this Act, acquires information or
25 records that are confidential or subject to
26 solicitor client privilege must not disclose
27 that information or those records to any
28 person except for a purpose contemplated by
29 this Act or rules.
30

31
32 Third, against the backdrop of those
33 protections, the Law Society has the
34 qualifications and expertise to ensure that
35 privilege and confidentiality are properly
36 identified, and that client information is
37 safeguarded, in compliance with these statutory
38 requirements and constitutional imperatives.

39 The provisions of the *Legal Profession Act*
40 mean that while the Law Society may learn the
41 client's privileged information in the course of
42 its audits, investigations or proceedings, that
43 information will remain protected from the
44 government, parties adverse in interest to the
45 client, and the public at large. The
46 confidentiality on which the client and
47 ultimately the broader public depend to ensure

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1 the due administration of justice is thereby
2 preserved in conjunction with the important AML
3 work that the Law Society undertakes.

4 Now, even stepping back from that, the Law
5 Society also has a variety of other means by
6 which it seeks to prevent lawyers from having any
7 involvement in money laundering, and it's to that
8 basket of broader work that I'll turn now.

9 So moving more broadly to what the Law
10 Society does in terms of its AML work, and
11 perhaps broader still to two of the questions
12 that we expect the Commission may be addressing
13 in the course of its work.

14 We expect that those are the following.
15 Have regulators like the Law Society demonstrated
16 commitment to AML efforts, and have the measures
17 that they have taken been appropriate?

18 So for its part, the Law Society has been
19 engaged with AML since at least the 1980s, with
20 increasing AML involvement since the enactment of
21 federal AML legislation in 2000. The Law
22 Society's commitment is found at all levels of
23 the organization.

24 The work of the Law Society has included the
25 formulation and refinement of rules intended to
26 limit the potential for lawyers to have any
27 involvement in money laundering. It has
28 undertaken this work partly in conjunction with
29 other law societies in Canada, but it has also
30 taken pioneering measures in its own right.

31 Of course, rules are not enough. They must
32 also be known, respected and enforced. The Law
33 Society fulfils very considerable auditing,
34 investigative and enforcement functions; it
35 imposes disciplinary measures where appropriate;
36 it provides significant education and practice
37 advice; and it collaborates with other entities
38 including other regulators.

39 We expect the Law Society's work will be the
40 subject of evidence and submissions going forward
41 in the course of this inquiry. The work has been
42 both intensive and wide-ranging. And so what
43 I'll do now in the next few moments is simply to
44 provide a summary of the general categories of
45 work that have been undertaken.

46 One aspect of the Law Society of B.C.'s work
47 has been rule-making and reform. Clear rules are

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1 important in setting out or confirming
2 expectations for the legal profession,
3 constraining certain activities that might
4 increase the risk of lawyers knowingly or
5 unknowingly having any involvement in money
6 laundering, and providing both standards against
7 which to measure conduct and a fair basis on
8 which to impose disciplinary measures.

9 Now, as I've referred to, the Law Society
10 Rules include a duty to withdraw from
11 representation if "a lawyer knows or ought to
12 know that he or she is or would be assisting a
13 client in fraud or other illegal conduct."
14 Further, again, the B.C. Code of Conduct provides
15 that lawyers must not engage "in any activity
16 that the lawyer knows or ought to know assists in
17 or encourages any dishonesty, crime or fraud."

18 Now, those are broad prohibitions. The Law
19 Society has also implemented and improved upon
20 more specific restrictions that are intended to
21 minimize the likelihood of any lawyer involvement
22 in money laundering, including, firstly, the so-
23 called "no cash rule," first put in place in
24 2004, which limits the amount of cash that a
25 lawyer may accept from any one client and sets
26 out how that cash is to be dealt with.

27 Second, client identification and
28 verification rules, including in relation to
29 obtaining information about the client's source
30 of money. These rules are in keeping with a
31 "lawyer's obligation to know his or her client,
32 understand the client's financial dealings in
33 relation to the retainer with the client and
34 manage any risks arising from the professional
35 business relationship with the client." Client
36 Identification and Verification rules were first
37 introduced in 2008 and have steadily been
38 advanced.

39 A third example is the various rules
40 regarding trust accounting and use, including a
41 recent rule requiring that "[e]xcept as permitted
42 by the [*Legal Profession Act*] or these rules or
43 otherwise required by law, a lawyer or law firm
44 must not permit funds to be paid into or
45 withdrawn from a trust account unless the funds
46 are directly related to legal services provided
47 by the lawyer or law firm."

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1 The Law Society of B.C. has taken a
2 leadership role among law societies in Canada,
3 working with the Federation of Law Societies of
4 Canada to coordinate development and
5 implementation of AML rules throughout the
6 country.

7 Now, another aspect of the Law Society's
8 work in the AML context is associated with its
9 Comprehensive Trust Assurance Program. Many of
10 the law firms located in the province of course
11 have trust accounts. Funds by necessity flow
12 through these accounts as part of client
13 transactions and litigation matters or retainers.
14 The Law Society's Trust Assurance department
15 reviews annual trust reports from every law firm
16 in British Columbia; provides periodic compliance
17 audits of all law firms; and provides education,
18 advice and resources to help ensure that lawyers
19 handle trust funds appropriately.

20 Traditionally the Law Society conducted
21 audits of each law firm at least once every six
22 years, but more recently it increased the
23 frequency of regular audits to once every four
24 years for firms that practise mainly in higher
25 risk areas such as real estate or wills and
26 estates. Both historically and today, the Law
27 Society conducts audits even more frequently
28 where concerns arise. Flags for more frequent
29 audits include failure to file a trust report;
30 information on a trust report that indicates non-
31 compliance with the trust accounting rules and
32 procedures; referral from other departments of
33 the Law Society; and so on. The Law Society is
34 also developing new tools for auditing complex
35 files and larger firms, including the development
36 of customized data analytics and artificial
37 intelligence software.

38 Currently, five accountants engaged in trust
39 account regulation at the Law Society have
40 obtained certification from the Association of
41 Certified Anti-Money Laundering Specialists with
42 11 more auditors expected to achieve this
43 certification by spring 2020, so very shortly.
44 Three staff are Certified Fraud Examiners. All
45 trust assurance auditors and management have
46 Chartered Professional Accountant designations.
47 And the Law Society has increased its staffing

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1 budget by more than 30 per cent for the Trust
2 Assurance Department from 2015 to 2019.

3 A further aspect of the Law Society's AML
4 work is in the form of rigorous investigations
5 and enforcement. The Law Society has a
6 Professional Regulation group responsible for
7 investigations, monitoring and enforcement, as
8 well as disciplinary proceedings.

9 Any person who believes that a lawyer or law
10 firm has been guilty of professional misconduct,
11 conduct unbecoming to the legal profession, or a
12 breach of the *Legal Profession Act* or Law Society
13 Rules may make a complaint to the Law Society.
14 Complaints come from many sources, including the
15 public, other lawyers, institutions or the
16 courts. The Law Society also opens files on its
17 own initiative when conduct concerns come to its
18 attention, whether from media reports, court
19 decisions, audits or mandatory self-reports from
20 lawyers.

21 The Law Society has developed substantial
22 in-house expertise to address alleged misconduct
23 that may involve allegations of inappropriate
24 financial transactions. Investigations are
25 conducted by either experienced lawyers or a
26 Chartered Professional Accountant or a Certified
27 Fraud Examiner, or all of the above, with
28 assistance from forensic accountants, forensic
29 accounting analysts, an investigator who is a
30 former officer of the RCMP, and paralegals as
31 needed. Several of the Law Society's
32 investigators and forensic accountants have
33 achieved or are in the process of achieving
34 designations as Certified Anti-money Laundering
35 Specialists, and four forensic accounting staff
36 as well as two investigations staff are Certified
37 Fraud Examiners.

38 The Law Society has increased the
39 investigations, monitoring and enforcement group,
40 which investigates serious complaints, by over 30
41 percent from 2015 to 2019.

42 The Law Society's powers in terms of
43 investigations are significant and include the
44 ability, as I mentioned earlier, to require a
45 person to attend to answer questions on oath or
46 affirmation and produce records in their
47 possession or control. The Law Society -- and I

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1 emphasize this -- does not shy away from using
2 its strongest investigative powers.

3 Lawyers have a duty to cooperate with Law
4 Society investigations. This includes providing
5 written responses to questions, producing books
6 and records, and attending interviews. A lawyer
7 must produce information to the Law Society
8 regardless of a potential claim to privilege,
9 given the protections in s. 88 of the *Legal*
10 *Profession Act*.

11 In addition, the Law Society may obtain an
12 order from the chair of its Discipline Committee
13 to conduct a forensic audit of a lawyer's
14 practice where there are reasonable grounds to
15 believe that a discipline violation may have
16 occurred. The order is normally obtained without
17 notice to the lawyer to ensure that evidence is
18 not tampered with or destroyed. With the order,
19 the Law Society's forensic service providers may
20 make a forensic image of the practice's computer
21 hard drives and other electronic data used in the
22 law practice, including cell phones.

23 The Law Society has the ability to act
24 quickly when the public is at risk even during
25 the investigation phase. If there are reasonable
26 grounds to believe that extraordinary action is
27 required to protect the public, the Law Society
28 may bring interim proceedings seeking a
29 suspension or the imposition of restrictions or
30 conditions on the lawyer's practice. The lawyer
31 may be requested to sign an interim undertaking
32 that imposes restrictions or conditions on their
33 practice, which would be publicly disclosed on
34 the Lawyer Directory.

35 When an investigation establishes evidence
36 of a discipline violation, a referral can be made
37 to the Discipline Committee with a recommendation
38 for a disciplinary response. If determined to be
39 warranted after a hearing, disciplinary action
40 may include a substantial fine, the imposition of
41 conditions or limitations on the lawyer's
42 practice, suspension from the practice of law, or
43 disbarment. The Discipline Committee includes
44 public representation in the form of an appointed
45 benchler who is not a lawyer.

46 An additional element of the Law Society's
47 AML work comes in the form of dedicated

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1 educational efforts. The Law Society educates
2 lawyers on their AML obligations, and is
3 increasing the delivery of AML content in the Law
4 Society's Professional Legal Training Course for
5 those about to enter the profession.

6 Law Society staff provide significant
7 contributions to national-level educational
8 initiatives, including through the Federation of
9 Law Societies of Canada's Anti-Money Laundering
10 and Terrorist Financing Working Group, which has
11 put together publications that provide further
12 guidance and risk advisories for lawyers in the
13 AML context.

14 The Practice Advice department of the Law
15 Society, with which many of us are familiar,
16 provides education and resources relevant to AML.
17 The practice advisors -- all of whom are lawyers
18 -- provide one-on one advice. They assist
19 lawyers who may have some concern about a client
20 interaction or some area of the practice,
21 including compliance with Client Identification
22 and Verification rules or identifying red flags
23 for money laundering. There is also a trust
24 compliance auditor hotline which assists with
25 similar inquiries.

26 The Trust Assurance department provides
27 education and resources for lawyers and law firm
28 staff as well, including a Trust Accounting
29 course, handbook, and other materials.

30 Further, the Law Society publishes on its
31 website Hearing Panel decisions where lawyers
32 have been found to have committed professional
33 misconduct or breached the Law Society Rules.
34 Summaries are included in Benchers' Bulletins
35 that are delivered to lawyers and linked to the
36 involved lawyer's profile on the lawyer directory
37 on the Law Society website.

38 Now, another important aspect of the Law
39 Society's work is collaboration with government
40 or other investigative agencies. Money
41 laundering -- and this is a common theme of today
42 -- affects every aspect of our society and its
43 institutions, including financial institutions,
44 law enforcement agencies and professional
45 regulators. No single agency has the resources
46 to effectively combat money laundering on its
47 own, and different agencies have different

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1 powers, strengths and forms of expertise.

2 The Law Society supports initiatives to
3 elevate interagency collaboration, cooperation
4 and, where appropriate, information sharing, and
5 has been working toward increasing the level of
6 activity on this front. It has developed
7 relationships with such organizations as the B.C.
8 Securities Commission, the U.S. Securities and
9 Exchange Commission, the Society of Notaries
10 Public, and the Land Title Survey Authority, and
11 has encouraged them to refer to the Law Society,
12 for investigation, any concerns they may have or
13 that may come to their attention about lawyer
14 conduct. The RCMP has been invited to do the
15 same.

16 The Law Society has also, together with
17 other agencies, participated in discussions
18 regarding AML and fraud-related trends,
19 activities, typologies and red flags. The Law
20 Society is part of *Project Athena*, which was
21 touched on earlier, the private-public initiative
22 dedicated to eradicating money laundering. It's
23 also part of a new federal working group that has
24 been touched on today as well, established by the
25 federal Minister of Justice. And two of the Law
26 Society's senior officials, including its Chief
27 Finance Officer and Director of Trust Regulation
28 and the person internally responsible for
29 investigations and enforcement, have been part of
30 that endeavour.

31 Now, I touched on earlier the constitutional
32 and statutory framework that requires client
33 rights to be protected in the AML process, and
34 the means used in the context of the Law
35 Society's investigations and disciplinary
36 proceedings to do so. But beyond that, protocols
37 have been developed among the Law Society, law
38 enforcement, Crown counsel and the courts that
39 deal with the search of a law office, which may
40 allow law enforcement to access information while
41 properly addressing solicitor-client privilege.

42 The Law Society Rules permit the Law Society
43 to deliver information that may disclose a
44 criminal offence to law enforcement agencies
45 while properly addressing solicitor-client
46 privilege. During an investigation, the Law
47 Society encourages complainants and witnesses to

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1 directly report their concerns about criminality,
2 including on the part of a lawyer, to law
3 enforcement.

4 And in the rare instances where it is clear
5 that communications between a lawyer and a client
6 are of themselves criminal or where those
7 communications relate to obtaining advice with
8 respect to facilitating a criminal enterprise,
9 confidentiality protections either never applied
10 or are lost.

11 Now, a further aspect of the Law Society's
12 AML work relates to legislative reform. It's
13 mindful of opportunities that may exist to reform
14 legislation in ways that facilitate AML efforts
15 by lawyers, by the Law Society as a regulator,
16 and by other agencies. And one of those areas
17 has been the increased transparency for ownership
18 of property, which we've heard about earlier
19 today and the Law Society strongly supports.

20 Now, the categories and examples of work
21 that I have touched on are not exhaustive. The
22 Law Society recognizes that money laundering is
23 serious and evolving. It's alert to identifying
24 possibilities for further AML work to be
25 undertaken and for additional AML measures to be
26 employed.

27 In addition -- and now I'm at paragraph
28 66 -- the need to uphold and protect the public
29 interest in the administration of justice
30 requires that the Law Society and the legal
31 profession that it regulates maintain public
32 confidence. The Law Society is committed in its
33 efforts to inform the public and other agencies
34 about its work, both to ensure public confidence
35 and to find ways to collaborate.

36 And here I'll turn to the last batch of
37 comments I have, which is about the opportunities
38 that this Commission of Inquiry brings. The Law
39 Society very much welcomes the opportunities that
40 this Commission presents to examine and assess
41 the nature of money laundering issues that face
42 our province, to evaluate the AML work that's
43 been done to date, and to build further bridges
44 among the agencies that are deploying their
45 resources and expertise to grapple with the
46 problem.

47 Now, in terms of particular opportunities

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1 that the Law Society views as arising, firstly,
2 it sees this as an important forum for the
3 Commission, participants and witnesses to discuss
4 and address money laundering and how it should be
5 combatted. The Law Society welcomes the
6 opportunity to work together on recommendations
7 arising from the broad mandate set out in the
8 Terms of Reference.

9 The Law Society takes particular note of,
10 and applauds, the fact that the provincial
11 government instituted this inquiry. While
12 consideration of regulatory models and methods
13 employed in other jurisdictions may be
14 appropriate, constitutional and statutory
15 imperatives highlight the importance of a "made-
16 in-Canada," and indeed to a certain extent a
17 "made-in-B.C." approach to AML. We expect this
18 to be a theme over the course of the Inquiry.
19 The Commission is particularly well placed to
20 understand the local and legal context and from
21 there to find solutions that work well for those
22 involved in AML efforts in this province in
23 particular.

24 The Commission also provides a particularly
25 important forum for encouraging collaboration
26 rather than litigation. As the *Federation of Law*
27 *Societies* case demonstrated, there is a risk that
28 legislative measures imposed by a government may
29 inadvertently produce consequences that are found
30 to be unconstitutional. If legislative measures
31 were imposed in future that seemed to threaten
32 the public interest in the administration of
33 justice, the Law Society and, we expect, other
34 participants here may well need to return to the
35 courts to ask the courts' view of whether those
36 measures are constitutional. Litigation consumes
37 considerably more time and resources and detracts
38 from the AML work that needs to be done. It is
39 more productive to address the underlying issues
40 in a collaborative manner.

41 The Law Society sought, and was granted, a
42 broad grant of standing in this inquiry, in part
43 because the work of its more than 12,500
44 practising lawyers and the Law Society itself in
45 regulating them touches on many of the areas
46 identified in the Terms of Reference.

47 The Law Society sees its role in the

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1 Commission process as twofold. First, as
2 providing a clear and accurate understanding of
3 the Law Society's place in AML efforts, and the
4 constitutional and statutory framework that it,
5 and lawyers, operate within in relation to AML.

6 And second, beyond its direct role as
7 regulator, providing the Commission with
8 information and resources that the Law Society
9 has gathered and brought to bear on this issue
10 over the years.

11 The Law Society also appreciates the fact
12 that the Commission will raise awareness of the
13 money laundering risks and challenges that
14 British Columbia is facing. Increased awareness
15 helps all regulators be more effective. From the
16 standpoint of the Law Society, it assists the Law
17 Society by further raising the profile of the
18 issue for lawyers, and by raising the profile of
19 the issue for members of the public who may
20 provide information for Law Society
21 investigations.

22 In exploring the specialized resources,
23 skills and responsibilities of the various
24 organizations engaged in AML work, we expect as
25 well that the Commission's process will reveal
26 further avenues for cooperation and information
27 sharing, as well as gaps that may exist. We
28 continue to engage actively with other entities
29 that share a common interest in AML work, and the
30 Law Society welcomes suggestions on how to build
31 on those efforts.

32 So in conclusion, the Law Society
33 acknowledges that money laundering is a serious
34 issue. It also acknowledges the importance of
35 its participation in AML efforts compatible with
36 its regulatory mandate and informed by the
37 *Federation of Law Societies* case.

38 Successfully addressing money laundering
39 will require a wide range of organizations to
40 play a role commensurate with their mandates,
41 their expertise, and the constitutional and
42 statutory framework in which they operate. The
43 framework includes recognition that the
44 administration of justice obliges lawyers to
45 maintain their clients' confidences and advance
46 their clients' causes, especially when those
47 causes may put their clients in conflict with the

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1 state, subject of course to lawyers' duty not to
2 have any involvement in any dishonesty, crime or
3 fraud.

4 The Law Society commits to continue working
5 collaboratively with other organizations and the
6 Commission and to supporting the public inquiry
7 process in order to advance the AML fight.

8 And subject to any questions, that is the
9 Law Society's opening today.

10 THE COMMISSIONER: You will recall that I did ask Ms.
11 Hoffman about what appears to be an invitation,
12 or at least a comment made by Justice Cromwell in
13 the *Federation* case, about the prospect of
14 modifying the provisions of the *Proceeds of Crime*
15 (*Money Laundering*) and *Terrorist Financing Act* to
16 have lawyers report but while protecting
17 solicitor-client privilege and derivative use.

18 And I'm just wondering -- I took it from
19 your opening submissions that it's your view that
20 legislation, even as suggested by the Supreme
21 Court of Canada, is not necessarily the route to
22 go?

23 MS. HERBST: I think at this stage that's correct.
24 Certainly there is ongoing collaboration with the
25 Law Society and the federal government, and
26 discussions may lead in various avenues and to
27 various paths. But the one thing -- or several
28 things I'd say on that. As I noted, legislation
29 and crafting it to address the very serious
30 issues that arise here is very difficult, and I
31 think that was proven by the history leading to
32 the *Federation of Law Societies* case.

33 And at this point, I think there are other
34 and more beneficial ways to engage in
35 collaboration than something that potentially
36 raises the risk again of further litigation. So
37 yes, from that perspective.

38 Time has also moved on in the sense that
39 other forms of disclosure are now available. For
40 example, the land owner transparency legislation,
41 which is a very large step in terms of providing
42 information directly, without lawyers as an
43 intermediary, to people who are interested in
44 money laundering efforts.

45 And so I would say certainly there's still
46 discussion open and available, but there do seem
47 to me better and more productive routes to the

Opening Statement by Ms. Smith
B.C. Government & Service Employees' Union

1 regulation that needs to take place.

2 THE COMMISSIONER: And I suppose the issue of public
3 confidence is one that the societies need to
4 address as well.

5 MS. HERBST: Yes, absolutely.

6 THE COMMISSIONER: All right. Well, I mean -- thank
7 you. As with Ms. Hoffman, I'm simply asking
8 these questions not to press you for an answer
9 right now, but simply to put it on the agenda for
10 future consideration at the Commission.

11 MS. HERBST: Absolutely. And we've proposed a witness
12 panel, for example, and there will be ongoing
13 discussion, I'm sure, that can flesh this out.

14 THE COMMISSIONER: Thank you. Just one final
15 question. Do you have any suggestions for the
16 Commission as to what could most profitably be
17 pursued by us as discrete topics? Or is that
18 something that you'd like to think about?

19 MS. HERBST: In terms of particulars, I'd like to
20 think about it and of course get back to
21 Commission counsel, who have been very helpful in
22 terms of engaging so far. But certainly -- and I
23 realize these aren't particularly discrete
24 topics, but from the standpoint of regulation, I
25 think it is very much -- have regulators that are
26 involved in the context of the Law Society. The
27 Law Society has shown commitment to this issue,
28 and how have its measures measured up, if I could
29 put it that way, against the goal of reducing
30 money laundering in the sector in which it
31 operates and perhaps more generally.

32 THE COMMISSIONER: Thank you.

33 MS. HERBST: Thank you.

34 THE COMMISSIONER: Thank you, Ms. Herbst.

35 MR. MCGOWAN: Mr. Commissioner, the next participant
36 to present their opening is the British Columbia
37 Government and Service Employees' Union. Their
38 counsel, Mr. Mistry, is present but I understand
39 he may depend on someone else to make the
40 opening.

41 THE COMMISSIONER: Thank you, Mr. McGowan.

42

43 OPENING STATEMENT BY MS. SMITH (BCGEU):

44

45 MS. SMITH: Good afternoon, Commissioner Cullen. My
46 name is Stephanie Smith. My pronouns are she and
47 her. And I am president of the B.C. Government

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1 and Service Employees' Union.

2 It is my honour to appear before you today
3 on behalf of the more than 80,000 members of the
4 BCGEU to make this submission on the traditional
5 and unceded territory of the Musqueam, Squamish
6 and Tsleil-Waututh peoples.

7 Before I begin, I want to thank the
8 Commission for granting our union's application
9 for standing and assure Commission counsel that I
10 will be providing a written copy of this
11 submission. I also want to thank the other
12 participants for being part of this proceedings.

13 And I would like to quickly introduce the
14 BCGEU staff who are here with me today: Jitesh
15 Mistry, our general counsel, and in the gallery,
16 Danielle Marchand, press secretary.

17 THE COMMISSIONER: Thank you.

18 MS. SMITH: In my statement today, I will address
19 three broad topics: why the BCGEU applied for
20 standing, what our union plans to contribute to
21 the Inquiry, and what outcomes and remedies we
22 are hoping to see as a result of the Commission's
23 work.

24 The BCGEU applied for standing as a
25 continuation of our advocacy on behalf of our
26 members whose lives have been impacted, altered
27 and, in some cases, endangered by the criminal
28 money laundering activity that is at the core of
29 the Commission's mandate.

30 Several factors inspired our advocacy. The
31 first factor is the make-up of our membership.
32 The BCGEU is one of the largest, most diverse,
33 and fastest growing unions in B.C. We represent
34 more than 80,000 members who work in virtually
35 every community in the province and almost every
36 sector of the economy from public service to non-
37 profit to private enterprise.

38 A few membership groups are particularly
39 relevant to these proceedings and I would like to
40 review them briefly. The BCGEU is the lead union
41 for workers in the provincial public service.
42 More than 30,000 of our members work in direct
43 government and over 30,000 more in the broader
44 public service, including in departments of the
45 Ministry of the Attorney General and the Ministry
46 of Municipal Affairs and Housing tasked with
47 regulation, enforcement, and oversight of many of

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1 the sectors impacted by money laundering, like
2 the Gaming Policy Enforcement Branch.

3 The BCGEU also represents workers in the
4 financial services industry, who face potential
5 risks related to organized crime groups
6 attempting to move their laundered funds through
7 legitimate banking institutions.

8 And the BCGEU is the lead union in B.C.'s
9 gaming sector. Thousands of our members work in
10 some of the most profitable casinos in B.C.,
11 including Metro Vancouver's River Rock, Hard
12 Rock, Starlight, and Grand Villa casinos. From
13 their positions in the cages, on the gaming
14 floor, in food and beverage service, and
15 security, they have seen, heard, and felt the
16 impacts of money laundering.

17 Finally, the BCGEU represents workers whose
18 work has thrust them to the frontlines of the
19 overdose crisis, including our members in
20 frontline community health, mental health and
21 addictions, social services, court services,
22 corrections, and even libraries.

23 I am spending time describing these
24 membership groups because I want to emphasize for
25 the Commission that, while it is true that money
26 laundering has impacted every British Columbian
27 in some way, BCGEU members have experienced
28 unique impacts, including seeing their
29 livelihoods and personal safety threatened by the
30 criminal activity that has been allowed, possibly
31 even encouraged, to flourish in B.C.'s gaming
32 sector over the past decade and half; seeing the
33 reputation of the sectors that they work in
34 damaged by media coverage of money laundering;
35 having the substantive nature of their work
36 change as policies and regulations are being
37 implemented to eliminate money laundering; and
38 dealing with the serious safety risks and heavy
39 emotional toll of the opioid crisis in their
40 workplaces, families and communities.

41 For tens of thousands of BCGEU members,
42 money laundering has been and continues to be a
43 very real factor in their working lives as well
44 as a real and present risk to their mental and
45 physical health and safety. The BCGEU applied
46 for standing to be the voice of those members in
47 this inquiry.

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1 Before I move on to discussing our intended
2 contributions and hoped-for outcomes, I want to
3 address another critical factor in why we applied
4 for standing and the unique nature of our union.
5 Like all unions, one of the BCGEU's core
6 objectives is to protect and empower our members
7 and to improve their working lives through a
8 rigorous and innovative approach to labour
9 relations, including: collective bargaining,
10 internal organizing and various other tools,
11 techniques and tactics.

12 But, unlike some unions, the BCGEU has a
13 broader objective. We are part of a progressive
14 social justice movement that aims to create a
15 more just and equitable society where all people
16 have access to human rights, including the right
17 to feel, and be, safe in their communities,
18 homes, and workplaces and all people are treated
19 with dignity, respect, and fairness.

20 Our targets for social justice advocacy are
21 driven by our members through resolutions to our
22 triennial policy conventions as well as through
23 our intra-convention governance body, our
24 provincial executive. Our advocacy takes the
25 form of sophisticated multi-platform campaigns
26 that aim to raise awareness, inspire action,
27 shift discourse, and change policy.

28 Three of the advocacy campaigns we have
29 undertaken over the last three years are of
30 particular relevance to the Commission's mandate,
31 and I will briefly review those campaigns and
32 their relevance.

33 Our Affordable B.C. campaign, launched in
34 November of 2017. Like all British Columbians,
35 our members have struggled because of the housing
36 crisis, whether they have found themselves unable
37 the communities they work in or whether or
38 whether they have found rental stock in their
39 community unaffordable, unavailable or
40 inaccessible. Our members in communities across
41 the province told us that lack of safe,
42 affordable housing was their biggest challenge.
43 They wanted their union to step up and we did
44 with the Affordable B.C. campaign.

45 The Affordable B.C. campaign consisted of:

46
47 - Working with partners, including other

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1 unions, to identify, develop and lobby for
2 policy options aimed to address various
3 aspects of the crisis, including tax policy,
4 land use zoning, renter protections, and
5 real estate speculation, just to name a few;
6

7 - Reaching out to our members and the
8 general public to hear their stories and
9 discuss our policy proposals. This part of
10 the campaign included a series of public
11 forums on housing in some of B.C.'s hardest
12 hit communities as well as a dedicated
13 website to collect stories;
14

15 - Direct engagement with all levels of
16 government including municipal, regional,
17 and provincial to promote policy change;
18

19 - We also launched several online petitions
20 to build public support for our plan and
21 give us leverage to get our plan
22 implemented.
23

24 The Affordable B.C. campaign is still active
25 and has been successful. Our public forums were
26 standing room only. Our petitions garnered tens
27 of thousands of signatures, and the relationships
28 we built with our partners remain strong and
29 productive. And our policy proposals are having
30 an impact. Nevertheless, as you know, and as our
31 members keep telling us, the housing crisis
32 persists.

33 In December of 2017, we launched a campaign
34 focused on the fentanyl crisis that was, and
35 still is, changing and ending lives across our
36 province. The BCGEU's fentanyl campaign was
37 driven by the tens of thousands of BCGEU members
38 in mental health and addictions, community
39 health, corrections, social work, sheriffs, and
40 even public libraries, who were dealing with the
41 fallout from the overdose crisis in their
42 worksites and their communities.

43 Some had lost clients or co-workers to
44 overdose. Some had witnessed and responded to
45 overdoses in their workplaces. But all of them
46 were desperate for support as they dealt with the
47 impact of the crisis. And again their union

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1 stepped up.

2 Our fentanyl campaign has two goals:

3
4 - Connect with our members to better
5 understand the them and develop education,
6 training, and other supports to help them
7 deal with the impact of the crisis on their
8 mental emotional and physical security in
9 and outside of their workplace;

10
11 - and public advocacy to exert pressure on
12 all levels of government to take whatever
13 action they could to stop the crisis and
14 mitigate its impact on people.
15

16 Like Affordable B.C., our fentanyl campaign
17 is still active. It has been successful in that
18 our members can now access resources, like
19 education, training, and other supports. And we
20 have seen our government and other organizations
21 taking action. But, also, like Affordable B.C.,
22 the problem that inspired the fentanyl campaign
23 has not been "solved." So, two campaigns, both
24 successful in their way but both focused on
25 issues that have not been solved, issues that
26 continue to impact our members and all British
27 Columbians.

28 Which brings me to the third campaign I want
29 to discuss before moving on to our contributions
30 and remedies. That's our Public Inquiry Now
31 campaign, which was launched in December of 2018.

32 By that point there was mounting evidence
33 indicating that the subjects of our two other
34 campaigns -- housing affordability and
35 fentanyl -- were linked to each other and that
36 both were somehow linked to organized crime and
37 money laundering. That evidence included leaked
38 RCMP reports as well as the three reports
39 commissioned by the provincial government from
40 Dr. German and others.

41 In effect, Public Inquiry Now built on and
42 merged Affordable BC and our fentanyl campaign to
43 achieve one objective: pressure the provincial
44 government to call a public inquiry into the
45 links between the housing affordability crisis,
46 the overdose crisis, and criminal money
47 laundering in casinos.

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1 We knew what we had learned through our
2 campaigns. We knew what the government and the
3 police had learned through research and reports.
4 And we knew there was a link. And we knew that a
5 public inquiry was the only way to achieve three
6 goals:

7
8 - Get to the truth of how these issues are
9 linked and how we got to this place of
10 crisis;

11
12 - Hold those responsible accountable for
13 their actions and inactions;

14
15 - Reverse the damage that can be reversed
16 and protect British Columbians from anything
17 like this ever happening again.

18
19 In launching Public Inquiry Now, the BCGEU
20 became one of the first voices in civil society
21 to call for a public inquiry. And with our
22 participation in the Inquiry we hope to continue
23 to advance the goals of that campaign.

24 I will now move on to discuss our
25 participation in the Inquiry specifically: what
26 we plan to contribute to the proceedings; and
27 what outcomes and remedies we are hoping to see
28 from the Commission.

29 I want to take a moment to acknowledge that
30 the BCGEU applauds and supports the work done by
31 our current provincial government, including the
32 Finance Minister and the Attorney General, as
33 well as the contributions of Dr. Peter German and
34 others in investigating money laundering in B.C.
35 After years of inaction, the measured approach to
36 fact-finding, research and data analysis over the
37 past three years has built a strong foundation of
38 knowledge about key factors, like the actions and
39 inactions of previous governments and other
40 decision makers and the gaps and deficiencies of
41 the historic and current regulatory,
42 investigatory and enforcement regimes that have
43 been exploited for too long.

44 But none of the work undertaken to date
45 grapples with the questions of accountability,
46 fault-finding, and remedies. It is those
47 questions the BCGEU is asking the Commission to

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1 grapple with.

2 In addition to the Commission's broad
3 mandate to investigate the scale, scope, impacts,
4 causes, and solutions to money laundering, the
5 BCGEU would like to see the Commission address
6 some additional issues we believe will be
7 critical to our province's ability to move
8 forward from this crisis.

9 One, improved working conditions in the
10 gaming sector. Published reports and
11 communication with BCGEU members suggest that
12 criminal activity has been a known problem in
13 B.C. casinos since the late 1990s. Workers in
14 some casinos have faced a visible organized crime
15 presence in their workplaces for more than two
16 decades. Some have dealt with harassment and
17 intimidation from known criminals and/or
18 associated VIP gamblers.

19 All too often, casino management has turned
20 a blind eye to these issues, or in some cases
21 even enabled them, in order to maintain and grow
22 their business.

23 I want to be clear that BCGEU firmly
24 supports the gaming sector --

25
26 (BACKGROUND NOISE)

27
28 THE COMMISSIONER: I'm just going to ask you to wait
29 for a moment. Yes, thank you.

30 MS. SMITH: Thank you. I do want to be clear that the
31 BCGEU firmly supports the gaming sector,
32 especially for its vital role in funding the
33 public services that families and communities
34 across our province rely on every day. And for
35 that reason, we would like to see the Commission
36 investigate and make recommendations related to
37 regulatory and institutional reform in the gaming
38 sector, with the health and safety of workers as
39 a central consideration

40 Key avenues include enabling and protecting
41 whistleblowers. The German report makes limited
42 recommendations regarding measures to encourage
43 and protect whistleblowing by VIP gaming room
44 employees. But there is little else in the
45 recommendations from the Commission's mandate
46 reports regarding mechanisms, processes, and
47 protections to encourage whistleblowing by

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1 workers in the wider gaming sector or in other
2 workplaces where money laundering or related
3 illegal activities could either occur or be
4 detected in the course of regulatory and
5 enforcement activities. Accounts from the
6 Commission's mandate reports, the media, and our
7 union's communications with members suggest that
8 efforts by workers to blow the whistle on illegal
9 activity in the gaming sector have been blocked
10 by managers and even elected officials, with
11 whistleblowers facing sanctions up to and
12 including dismissal for speaking up.

13 The BCGEU acknowledges that the *Public*
14 *Interest Disclosure Act*, our province's recently
15 enacted whistleblower legislation, offers some
16 protection for some workers in some
17 circumstances, particularly those in public
18 sector employment. However, the legislation
19 falls well short of best practices
20 internationally, and would not have enabled or
21 protected attempts at whistleblowing around money
22 laundering in the gaming sector.

23 For example, former casino worker Muriel
24 Labine, whose case I will discuss briefly later
25 in this submission, would not have access to
26 whistleblower protection even if she was bringing
27 forward her concerns about money laundering and
28 loan sharking today, with the legislation in
29 place, rather than in the late 1990s, when she
30 bravely attempted to speak up.

31 Based on these considerations, the BCGEU
32 asks the Commission to make recommendations to
33 expand and strengthen whistleblower legislation,
34 protections and processes, including:

35
36 - Extending whistleblower legislation and
37 protection to employees in the private
38 sector, as has already happened in Australia
39 and several other jurisdictions;

40
41 - Expanding legal protections to
42 whistleblowers who use the media as a
43 channel for whistleblowing activity; and,
44

45 - Establishing a formal regime to support
46 whistleblowing in high-risk sectors, such as
47 the gaming sector, real estate, financial

1 services, and luxury car sales.
2

3 B. Increasing resources to expand public
4 sector-led enforcement and compliance in
5 vulnerable sectors. Scaling-up regulation,
6 enforcement, and compliance is implicit in many
7 recommendations of the Commission's mandate
8 reports. The BCGEU supports these recommendations
9 and believes that the Commission must directly
10 address the need for more resources to carry out
11 this work.

12 The existing Gaming Policy Enforcement
13 Branch, for example, is allocated around
14 \$14 million annually to oversee a multi-billion-
15 dollar gaming industry that is extraordinarily
16 vulnerable to organized crime. Findings in the
17 Commission's mandate reports suggest that
18 regulatory and enforcement bodies in real estate,
19 financial services, and luxury automobile sectors
20 may be similarly under-resourced.

21 Whatever regulatory, compliance, and
22 enforcement regimes are eventually recommended by
23 this Commission, it will be crucial that they are
24 accountable to the public, rather than to the
25 industries they regulate, and that they have the
26 resources and funding they need to effectively
27 carry out their mandate.

28 The BCGEU also asks the Commission to
29 recommend that funding for increased regulation
30 and enforcement come from licensing fees and
31 taxation of higher-risk sectors, including
32 gaming, real estate, financial services and
33 luxury automobiles.

34 C. Eliminating the source of laundered funds
35 by addressing the connection between money
36 laundering and the opioid crisis. As I discussed
37 earlier in my statement, the impact of the opioid
38 crisis has been a key driver of the BCGEU's
39 participation in this inquiry. While money
40 laundering is an important issue and a critical
41 risk to our province, we believe it is crucial
42 that the Commission address the fact that the
43 money being laundered is revenue from the drug
44 trade, a trade that is at the root of a public
45 health crisis that has already cost thousands of
46 lives in B.C. and across Canada.

47 The BCGEU believes that the location chosen

1 to launder the proceeds of crime -- whether it be
2 casinos, real estate, luxury goods or something
3 else -- is only the tip of the iceberg and that
4 the source of the funds must be addressed.

5 Again, I want to acknowledge the actions
6 already taken by our current government in
7 relation to the opioid crisis, including
8 implementing harm reduction programs that save
9 lives and launching a class action lawsuit to
10 recover the costs of the crisis from opioid
11 manufacturers.

12 These are valuable and impactful measures.
13 But as Dr. German pointed out, criminals need to
14 launder money and they will find the ways and
15 means to get that done. Recent reports suggest
16 that it is already happening and that our
17 province and others have vulnerabilities in areas
18 like international student fees.

19 On this basis, the BCGEU asks that the
20 Commission hear evidence and take reports on all
21 aspects of the opioid crisis in this province,
22 including identifying individuals and
23 organizations -- criminal and otherwise --
24 implicated in and profiting from the crisis. The
25 Commission should direct particular attention to
26 organizations and individuals involved in the
27 production, importation and distribution of
28 synthetic opioids, such as fentanyl and
29 carfentanil.

30 Based on that work, the BCGEU asks the
31 Commission to make recommendations aimed at
32 addressing all aspects of the opioid crisis,
33 including:

34
35 - Potential law enforcement measures to
36 disrupt the criminal organizations supplying
37 opioids;

38
39 - Expanded harm reduction measures to reduce
40 deaths and improve outcomes for individuals
41 living with substance use disorders;

42
43 - Better protections and protocols for
44 workers who are prescribed opioids after
45 being injured on the job; and

46
47 - Improved social service supports and

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1 treatment options to reduce opioid demand
2 and promote public health.
3

4 D. Investigating the possibility of undue
5 influence on municipal, provincial and federal
6 officials to affect public policy decisions that
7 could have prevented or disrupted the escalation
8 of money laundering or the opioid crisis.

9 The sheer scale and scope of criminal
10 activity outlined in the mandate reports, leaked
11 RCMP reports, and media accounts suggests the
12 possibility must be explored and the BCGEU
13 believes that exploration should be undertaken by
14 the Commission.

15 As part of that exploration, the Commission
16 should scrutinize the policy, regulatory, and
17 enforcement decisions that enabled money
18 laundering in high-risk sectors to develop and
19 escalate despite multiple warnings from experts
20 in law enforcement, regulatory bodies, and the
21 gaming sector. What actions were taken or not
22 taken? Which decision makers knew or ought to
23 have known the potential harm of those actions
24 and inactions?

25 In particular, and at a minimum, we believe
26 the Commission should investigate:

27
28 - Published allegations that senior
29 management in the B.C. casino sector
30 knowingly ignored warnings of suspicious
31 activity in B.C. casinos.
32

33 - Decisions within the Ministry of Attorney
34 General in 2013 to ignore internal reports
35 warning of large-scale money laundering in
36 the gaming sector, and the subsequent
37 decision in 2014 to fire, without cause, the
38 GPEB employee who brought these warnings
39 forward.
40

41 - The provincial government's 2009 decision
42 to disband the RCMP's B.C. Integrated
43 Illegal Gambling Enforcement Team after that
44 team had documented significant money
45 laundering and warned that an organized
46 crime associate had been allowed to buy part
47 of a B.C. casino.

1
2 - Allegations of willful blindness by BCLC
3 executives regarding money laundering and
4 other suspicious activity in the B.C. gaming
5 sector.
6

7 - The relationships between private gambling
8 operators and elected officials, including
9 lobbying activity related to gaming policy
10 and political donations to elected decision
11 makers at the provincial and municipal
12 levels.
13

14 E. Actions to eliminate the impact of money
15 laundering on housing prices.

16 The research underpinning our Affordable
17 B.C. campaign clearly demonstrated what many
18 decision makers also know: speculative
19 investment in real estate has made our province
20 one of the most expensive places in the world to
21 live, particularly in the Metro Vancouver area.

22 Fewer working people are able to find
23 appropriate, safe, affordable housing to buy or
24 rent that meets their needs. Homelessness is
25 more widespread and increasingly severe. And
26 while various factors have contributed to the
27 housing crisis, the most troubling underlying
28 cause is that housing has come to be seen
29 primarily as a lucrative investment opportunity
30 rather than a basic human need.

31 Evidence points to a multi-billion-dollar
32 portion of this speculative investment being
33 connected to money laundering, including efforts
34 to hide illegally transferred offshore money and
35 operations to launder money from drug trafficking
36 and other organized criminal activity.

37 Because of the lack of regulation, B.C.'s
38 real estate market, not unlike casinos, offers a
39 rare opportunity for criminals to launder the
40 proceeds of crime while also growing their money.

41 Again, I want to acknowledge that our
42 current government has done extensive work to
43 mitigate the impacts of the housing crisis
44 through policy, regulatory, and legislative
45 changes, and the BCGEU applauds and supports
46 these efforts. However, we believe that the link
47 between the housing crisis and the money

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1 laundering is one that the Commission must
2 investigate further.

3 Specific areas of inquiry for the Commission
4 include the extent to which regulators and other
5 decision makers in the real estate and
6 development industry, as well as elected leaders
7 and government, were aware of this problem and
8 why more was not done to combat it.

9 We ask the Commission to investigate the
10 scale, scope, and impacts of money laundering on
11 housing affordability in our province and make
12 recommendation on further measures to remediate
13 those impacts and ensure that safe, stable,
14 affordable housing is available and accessible to
15 working people in our province.

16 I have discussed at length why the BCGEU is
17 participating in this inquiry and the outcomes
18 and remedies we hope to see from the Commission's
19 work. I want to close my submission by outlining
20 what the BCGEU intends to contribute to the
21 Commission's work through this inquiry process.

22 Our key and critical contribution will be
23 the stories of our members and staff, including,
24 one, the perspective of frontline workers who
25 witnessed the genesis of money laundering and
26 organized crime in casinos.

27 For instance, Muriel Labine, a former member
28 and staff person with the BCGEU. Ms. Labine's
29 experiences attempting to speak up about what she
30 saw and protect herself and her family and her
31 coworkers from what was happening illustrate how
32 criminal activity took hold of our province's
33 gaming sector and offer instructive lessons for
34 other high-risk sectors.

35 The BCGEU is working with Ms. Labine to
36 fully consolidate her evidence for submission to
37 the Commission, but I would like to briefly
38 highlight some of her experiences here as part of
39 my submission.

40 Ms. Labine worked in casinos as a dealer,
41 supervisor and hostess from 1992 to 2000 and
42 documented the influx of organized crime, loan
43 sharking, and probable money laundering into her
44 workplace starting in the late 1990s.

45 Soon after baccarat betting limits were
46 increased from \$25 to \$500 per hand in 1997, Ms.
47 Labine noticed what seemed to be loan sharking

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1 activity on the gaming floor. Higher stakes,
2 high-turnover games brought in more VIP gamblers
3 and a dramatic increase in cash flow, with
4 thousands of dollars being played in a single
5 five-minute game.

6 Men she learned had gang affiliations would
7 bring clients and sit with them at the tables,
8 passing players casino chips and bundles of \$20
9 bills.

10 Loan sharks soon became a fixture in her
11 casino, working up to 12 hours per day, with
12 dozens of loan sharks on the casino floors at
13 once. Their presence was so ubiquitous that
14 staff came to know their faces and street names.

15 Over time, in addition to loan sharking,
16 Ms. Labine and her coworkers noticed known gang
17 members engaging in activity typically associated
18 with money laundering such as exchanging large
19 sums of \$20 bills for \$100 bills and buying
20 casino chips to cash in without playing.

21 Eventually, and perhaps inevitably,
22 incidents of serious violence involving loan
23 sharks became known and staff became acutely
24 concerned for their own safety.

25 Most notably, one lower-level loan shark who
26 was a regular in Ms. Labine's workplace was shot
27 in a public place by another regular loan shark
28 from the casino. The shooter was later named an
29 associate of the Big Circle Boys gang.

30 As casino workers became more alarmed about
31 the increasingly obvious presence of organized
32 crime in their workplace, Ms. Labine approached
33 casino managers with her concerns. Management
34 refused to act on her information, dismissing
35 what Ms. Labine and her coworkers knew to be
36 obvious loan sharking activity as "just friends
37 loaning money to friends."

38 Publicly, management denied any organized
39 crime presence in the casinos, but Ms. Labine
40 continued to notice and record instances of
41 management awareness of and even communication
42 with organized crime figures.

43 In one incident, Ms. Labine noted having
44 seen a casino vice-president shaking hands with
45 and engaging in long conversations with a man
46 eventually identified as a Big Circle Boys
47 kingpin, top casino loan shark, and a violent

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1 drug trafficker.

2 In another incident, higher management
3 prevented the removal from the casino of a gang
4 associated VIP gambler who had threatened female
5 staff.

6 In addition to keeping a detailed journal,
7 Ms. Labine began working with the BCGEU on a
8 unionization drive in the hope of securing a
9 safer, gang-free workplace for herself and her
10 co-workers. Our union worked very hard on that
11 campaign but, ultimately, we lost. And, because
12 of her union activity, Ms. Labine was fired.

13 Though Ms. Labine went on to work as an
14 organizer for the BCGEU with a passion and talent
15 for the casino sector, casino employers barred
16 her from the floor of most Lower Mainland casinos
17 in an effort to stop their employees from seeking
18 the protection of a union.

19 Though Ms. Labine was unable to directly
20 observe suspicious activity in casinos, she was
21 well known and well connected in the sector and
22 continued to hear reports of problems from other
23 workers.

24 Ms. Labine is just one casino worker and her
25 story is just one story. Our union is actively
26 engaged in reaching out to our members with
27 experience in the casino sector as well as the
28 other key sectors I mentioned earlier to collect
29 their stories of how the situation we now face
30 was allowed to happen.

31 We are making every effort to encourage our
32 members to share their stories with the
33 Commission while also ensuring they feel safe,
34 and are in fact safe, from repercussions in their
35 workplace and elsewhere. We will continue our
36 efforts throughout these proceedings.

37 We will also offer the perspective of
38 frontline workers tasked with implementing the
39 new anti-money laundering regime in the casino
40 sector regarding the weaknesses of that regime.

41 Since taking office in 2017 and based on the
42 recommendations of the German reports and others,
43 the current provincial government has begun to
44 take action to mitigate the impacts of money
45 laundering in high risk sectors. And while the
46 BCGEU applauds the efforts in this regard,
47 according to our members the early days of

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1 implementation have had mixed results.

2 We intend to bring forward the experiences
3 of BCGEU members currently working on the
4 frontlines in the casino sector who tell us of
5 ongoing problems with measures introduced to stem
6 money laundering, including ineffective
7 procedures that download monitoring, tracking,
8 and enforcement onto floor-level employees,
9 rather than the development of a comprehensive
10 system to accurately monitor transactions.

11 These procedures make it difficult to
12 accurately track patrons' cumulative transactions
13 across multiple games and tables, opening the
14 door to evasion of anti-money laundering measures
15 that only come into effect once a certain
16 threshold is reached. This decentralized
17 approach to tracking and monitoring makes it
18 difficult for employees to catch suspicious
19 activity but increases their workload and opens
20 them up to potential discipline if casino
21 management or regulators judge that the forms
22 have not been completed properly.

23 In addition, many casino workers report a
24 lack of proper training on the completion of
25 forms which are meant to capture suspicious
26 activity, and fears of discipline in cases where
27 they unwittingly fill out the forms incorrectly.

28 In some cases, anti-money laundering related
29 duties that had previously been done by
30 management are now being downloaded onto
31 frontline staff. The persistence of a management
32 culture that encourages employees to appease and
33 enable VIP gamblers and to keep them playing,
34 even in the face of problematic activity and
35 behaviour.

36 Our members report that, in many cases,
37 management are simply going through the motions
38 of compliance with AML measures but making clear
39 to employees that these are unwanted requirements
40 that the employer then blames on regulators or in
41 some cases the employees' union.

42 By bringing forward the experiences and
43 evidence of our members, we hope to inform the
44 Commission's work, addressing two of the three
45 questions that inspired the BCGEU to launch our
46 Public Inquiry Now campaign: How did we get
47 where we are? What can we do to remediate the

Opening Statement by Mr. Smart
B.C. Lottery Corporation

1 damage, and make sure nothing like this happens
2 in other sectors?

3 It is our sincere hope that the Commission's
4 work will also address the other questions that
5 formed the foundation of that campaign: Who was
6 responsible and how will they be held
7 accountable?

8 With that, I would like to thank the
9 Commission for the opportunity to make this
10 statement on behalf of the 80,000 plus members of
11 the BCGEU. I look forward to contributing to the
12 work of the Commission over the coming weeks and
13 months. Thank you.

14 THE COMMISSIONER: Thank you. Thank you, Ms. Smith.
15 I think what we will do now is take the break for
16 15 minutes. So we will resume shortly before
17 three o'clock. Thank you.

18 THE REGISTRAR: Order. The hearing will recess for 15
19 minutes.

20
21 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

22 (PROCEEDINGS RECONVENED)

23

24 THE REGISTRAR: All rise. The hearing will resume.

25 THE COMMISSIONER: Yes, Mr. Smart.

26 MR. SMART: Mr. Commissioner. I have Ms. Ramsay
27 beside me in case you ask questions.

28 THE COMMISSIONER: Thank you.

29

30 OPENING STATEMENT BY MR. SMART (B.C. Lottery
31 CORPORATION):

32

33 MR. SMART: Like the other participants, the British
34 Columbia Lottery Corporation is pleased to be
35 able to participate in this public inquiry and to
36 assist -- hopefully assist -- the Inquiry to
37 fulfil its mandate. We prepared our written
38 opening before having the opportunity to review
39 the province's opening, so there is some
40 repetition from what you've heard from Ms. Hughes
41 this morning.

42 As you heard from her, gaming in British
43 Columbia is authorized by the provincial *Gaming*
44 *Control Act*. It's a highly regulated industry
45 that must be conducted by the provincial
46 government within the confines of the federal
47 *Criminal Code*. BCLC, as a Crown agent, is

Opening Statement by Mr. Smart
B.C. Lottery Corporation

1 statutorily mandated to conduct and manage gaming
2 on behalf of the provincial government. That's
3 its role. And it does so within the policy
4 framework established by the Province, and within
5 a regulatory scheme that includes oversight by
6 the Gaming Policy and Enforcement Branch, GPEB,
7 which you heard about this morning, and it's a
8 body that is independent from BCLC. BCLC is not
9 a regulator. They're not a service provider.
10 They have a different role.

11 As the hearing of this inquiry is still many
12 months away, we intend to be relatively brief in
13 our opening statement. But there are five main
14 points we wish to make at this point in time.

15 The first is there is a crucial distinction
16 between two important but separate roles in
17 countering potential money laundering in the
18 gaming industry. The first is the responsibility
19 for identifying and reporting specific
20 transactions to the federal government's
21 financial intelligence unit, FINTRAC, which you
22 heard about this morning. And this first
23 responsibility of identifying and reporting
24 specific transactions to FINTRAC also includes
25 identifying and reporting certain conduct to
26 GPEB.

27 Now, the second role dealing with money
28 laundering is the responsibility for the
29 enforcement of anti-money laundering laws. BCLC
30 wants to emphasize in its opening that it is
31 BCLC's responsibility to identify and report and
32 it is the responsibility of regulators and the
33 police to enforce. And so this distinction
34 between identifying and reporting, which is
35 BCLC'S responsibility, and enforcement, which is
36 the responsibility of regulators and the police,
37 is central in understanding BCLC's efforts to
38 prevent money laundering in its casinos.

39 While BCLC collaborates with and supports
40 regulators and police, they -- that is the police
41 and regulators -- are ultimately the ones with
42 the authority to detect, investigate, and seek
43 charges against anyone suspected to be involved
44 in money laundering and other criminal
45 activities.

46 The second main point we want to emphasize
47 in our opening is that BCLC believes that it has

Opening Statement by Mr. Smart
B.C. Lottery Corporation

1 implemented effective measures to control or
2 prevent money laundering in or associated with
3 casinos in this province. To go back to the last
4 speaker, much has changed in the last 20 years in
5 terms of gaming in this province.

6 The cooperation and assistance of those
7 responsible for enforcing anti-money laundering
8 laws -- I say the police and regulators -- have
9 been an important element of BCLC's ability to
10 implement these preventative measures.

11 The third main point in our opening that I
12 want to emphasize is that BCLC believes that much
13 of what has been said publicly about its
14 responsibility for money laundering associated
15 with casinos is misinformed, and BCLC welcomes
16 this opportunity to provide to the Commission,
17 and to the public, with a more complete and
18 accurate factual record of BCLC's past efforts to
19 combat money laundering and its continuing
20 efforts to do so.

21 The fourth main point in our opening is that
22 while BCLC has adopted a number of the
23 recommendations from Dr. Peter German's 2018
24 gaming industry report, BCLC submits, with
25 deference to Dr. German, that his analysis
26 contains some inaccuracies concerning BCLC's role
27 in confronting money laundering and, again with
28 deference, it does not fairly or adequately state
29 what BCLC has done to address the problem. This
30 may be due to the fact that Dr. German sought
31 only minimal input from key people at BCLC when
32 preparing his report. That may be the result of
33 time constraints placed on him to complete his
34 report, but BCLC again welcomes the opportunity
35 to address what it perceives to be inaccuracies
36 in Dr. German's report.

37 And finally, the fifth main point BCLC wants
38 to emphasize in its opening remarks to you is
39 that there is a significant public benefit that
40 accrues from legalized gaming in British
41 Columbia, and we encourage the Commission to
42 recognize and consider this public benefit as it
43 addresses the issue before it. In other words,
44 when the Commission makes its recommendations, we
45 urge caution be exercised so as to not
46 unnecessarily diminish the significant public
47 benefit that accrues to British Columbians from

Opening Statement by Mr. Smart
B.C. Lottery Corporation

1 gaming.

2 I'll just expand upon three of these points
3 before offering some more general observations on
4 behalf of BCLC.

5 First, coming back again to the division of
6 roles and responsibilities with respect to money
7 laundering. As we've stated, when considering
8 the subject of money laundering it is important
9 to recognize this distinction between these two
10 important but separate roles in countering money
11 laundering within the gaming industry. As we've
12 said, the responsibility for identifying and
13 reporting specific transactions to FINTRAC and
14 certain conduct to GPEB, and second being the
15 responsibility for the enforcement of anti-money
16 laundering roles. Under this division, BCLC's
17 responsibility, it has a reporting role, not an
18 enforcement role. Its responsibility is to
19 identify and report certain transactions to
20 FINTRAC, including suspicious transactions.

21 And we've emphasized that, that is, BCLC's
22 role as a reporting entity because it informed --
23 it informed how BCLC initially assessed and
24 responded to increasing amounts of cash entering
25 British Columbia casinos. And you'll hear more
26 about that, I expect, in the course of hearings
27 in the fall. BCLC has always consistently sought
28 to comply with and meet its obligation to report
29 these transactions to the appropriate entities,
30 and it has actively taken steps to encourage and
31 support law enforcement in the performance of its
32 role of enforcement.

33 While BCLC has been diligent in its efforts
34 to identify and report suspicious transactions to
35 FINTRAC, its mandate and authority does not
36 include criminal or regulatory investigation
37 powers in relation to such transactions. For
38 that reason, BCLC also reports all suspicious
39 transactions to GPEB and to the RCMP for their
40 further consideration. These are the entities
41 with the mandate and authority to conduct
42 criminal or regulatory investigations related to
43 such transactions and to take enforcement action
44 when they deem appropriate. And of course, as
45 you know, it's Crown counsel in British Columbia
46 that has the authority to decide whether or not
47 criminal charges will be laid.

Opening Statement by Mr. Smart
B.C. Lottery Corporation

1 The second main point I want to amplify is
2 BCLC's anti-money laundering program, that we
3 submit is effective. Anti-money laundering is a
4 priority for BCLC, and it invests substantial
5 resources to continuously monitor and improve its
6 AML programming. Here are just some of the steps
7 that BCLC has taken since 2012 to confront
8 potential money laundering in this province in
9 the casinos. These efforts are summarized on
10 BCLC's website for members of the public to
11 review. And again, I anticipate you will hear
12 more about them from BCLC investigators when you
13 hear evidence in the fall.

14 In 2012, BCLC implemented policy changes to
15 enable British Columbia casinos to offer Patron
16 Gaming Fund accounts. This allows players to
17 transfer money from their bank accounts into a
18 separate gaming account, eliminating the need to
19 bring cash into a casino and creating,
20 importantly, a traceable source of funds.

21 In 2013, BCLC established a dedicated anti-
22 money laundering unit. This unit was expanded in
23 2012 and is staffed with internationally
24 certified AML investigators and certified
25 intelligence analysts.

26 In 2014, it established an Information
27 Sharing Agreement with the RCMP to assist BCLC in
28 identifying and banning certain individuals from
29 casinos, such as those who are suspected of
30 criminal activity, believed to constitute a
31 public safety risk, or suspected members of
32 organized crime groups. Since the establishment
33 of this Information Sharing Agreement with the
34 RCMP in 2014, BCLC has leveraged information
35 obtained through the agreement to ban more than
36 450 individuals from casinos across British
37 Columbia.

38 Another step is that BCLC requires and
39 supports anti-money laundering training for all
40 BCLC staff and all service provider staff in
41 casinos -- and of course, service providers are
42 the casino operators -- so that employees know
43 how to identify, report, and help prevent
44 potential money laundering.

45 Another step BCLC has taken is to require
46 casinos to clearly label all cheques it issues to
47 customers as "return of funds -- not game

Opening Statement by Mr. Smart
B.C. Lottery Corporation

1 winnings" or as "certified win" cheques, right on
2 the cheques, to prevent individuals from buying
3 in with large amounts of cash, playing nominally,
4 cashing out, and then receiving a generic casino
5 cheque. Thus clearly labelling the source of
6 cheques reduces the risk of casino cheques being
7 used to launder money. Unlike cash, cheques
8 provide regulatory and law enforcement agencies
9 with the ability to trace funds for investigative
10 purposes.

11 In late 2014, BCLC began placing certain
12 players on sourced-cash conditions, meaning that
13 they cannot buy in -- that is, purchase chips to
14 gamble -- with any amount of cash unless they can
15 prove their funds were sourced from an approved
16 financial institution or constitute confirmed
17 prior winnings from a BCLC gaming facility.

18 Another step was in 2018, BCLC implemented a
19 receipting policy whereby anyone who attempts to
20 buy in with \$10,000 or more in cash -- an amount
21 recommended by Dr. German -- is required to first
22 prove the source of such funds. This is an even
23 more stringent requirement than Dr. German's
24 interim recommendation that source of funds
25 declarations be required. In addition, casinos
26 have the discretion to ask anyone to provide the
27 source of their funds, regardless of the amount.

28 BCLC has also in place a Know Your Customer
29 process, which includes using various
30 intelligence tools and methods to better
31 understand its customers and their financial
32 dealings and to assist in identifying any
33 potential risk.

34 Finally, BCLC continues to work with the
35 provincial government on the recommendations made
36 in Dr. Peter German's 2018 report.

37 Now, the third area from our five main
38 points we wanted to emphasize at the beginning is
39 the public benefits from legalized gaming in
40 British Columbia. As you heard from Ms. Hughes,
41 millions of dollars of revenue flow from gaming
42 to the government of this province every year to
43 be used for the benefit of British Columbians.
44 This totalled \$1.4 billion in the 2018/2019
45 fiscal year. The public benefit to be gained
46 from gaming funds is one of the reasons why, in
47 the late 1990s, the government of the day

Opening Statement by Mr. Smart
B.C. Lottery Corporation

1 expanded gaming in this province and permitted
2 the introduction of slot machines in casinos.

3 Gaming funds, like all government revenues,
4 support a variety of important community and
5 infrastructure programs. Additionally, the
6 provincial government earmarks some gaming funds
7 specifically for charitable, sports, and arts
8 organizations, and it shares a percentage of
9 casino revenue directly with local governments
10 that host casinos. Thus, local governments, in
11 turn, use the money to benefit their communities.
12 The reach of these funds is significant and
13 should not be understated, as emphasized a short
14 while ago by counsel for the BCGEU.

15 So it is in the public interest to keep
16 gaming revenue from local facilities that are
17 operated in a socially responsible manner, rather
18 than sending British Columbia residents and non-
19 residents alike elsewhere for their gaming
20 entertainment, which was what happened a few
21 decades ago.

22 Accordingly, we respectfully urge the
23 Commission to recognize and consider the
24 important public benefits that flow from
25 responsible gaming in this province as you
26 address the issue of money laundering in the
27 gaming industry.

28 Now, having said that, the importance of
29 public revenue, BCLC's focus has never been
30 intended to be at the expense of sustainable
31 gaming conducted in a socially responsible
32 manner. BCLC takes its responsibility to enhance
33 the positive social benefits of gaming while
34 minimizing the potentially negative aspects or
35 consequences.

36 And money laundering is contrary to BCLC's
37 mission, vision, and values, and has no place in
38 gaming in this province. That is why BCLC has
39 invested significant resources and efforts into
40 its anti-money laundering unit, and continues to
41 do so today.

42 I'll close by making a few general
43 observations. BCLC observes, as you've heard
44 this morning, that tackling money laundering
45 associated with the gaming sector, and more
46 generally in society, is a complex issue because
47 it is an international problem involving

Opening Statement by Mr. Smart
B.C. Lottery Corporation

1 sophisticated organized crime with global reach.
2 As was said some years ago by the Attorney
3 General of Great Britain: "Crime has become as
4 global as banking." And that can be said today
5 about money laundering in particular.

6 You heard from Ms. Hoffman this morning on
7 behalf of Canada of the extensive efforts that
8 the federal government has undertaken nationally
9 and internationally to deal with global crime and
10 money laundering.

11 BCLC suggests that money laundering in this
12 province is not an industry-specific problem that
13 can be resolved with only industry-specific
14 solutions. It requires broader solutions,
15 because eliminating money laundering associated
16 with any one sector does not address the
17 underlying cause of the problem; it simply moves
18 it elsewhere. That is why, we submit, a
19 holistic, cross-sector, and cross-jurisdictional
20 approach is required.

21 Similarly, prevention of money laundering
22 cannot be the responsibility of one entity alone.
23 It requires a coordinated effort among all
24 entities who play a role, who have a
25 responsibility in monitoring, investigating, and
26 taking action against potential criminal
27 activity, from those responsible for monitoring
28 and reporting, such as BCLC, to those responsible
29 for enforcement, such as regulators, police and,
30 ultimately, Crown counsel.

31 It is also, as you've heard earlier today,
32 essential that the solutions to money laundering
33 remain flexible, so that money laundering efforts
34 can adapt quickly and effectively to the evolving
35 money laundering efforts of organized crime.
36 This requires adopting a risk-based approach and
37 avoiding prescriptive rules that criminals will
38 quickly learn and develop ways to work around.

39 So BCLC welcomes the opportunity this
40 inquiry presents for an objective and thorough
41 review of the extent, growth, evolution and
42 methods of money laundering in this province. We
43 know much more today about money laundering and
44 the methods and means by which it occurs than we
45 did even a decade ago. This enhanced knowledge
46 and awareness applies not just to the gaming
47 industry but also to other sectors in our

Opening Statement by Mr. Smart
B.C. Lottery Corporation

1 society, including financial institutions, real
2 estate, and the legal and accounting professions.

3 What struck me today listening to the
4 thorough and helpful opening submissions by Ms.
5 Hughes and Ms. Hoffman, besides the number of
6 acronyms we're going to have to deal with in this
7 hearing, were the significant efforts made in
8 recent years -- and I emphasize recent years --
9 through various organizations, working groups,
10 national and international, and through new
11 legislation to deal with money laundering in
12 particular and international crime in general.

13 I highlight the relative recency of these
14 efforts because it highlights that our
15 understanding of the extent of money laundering
16 and the methods by which it occurs has evolved
17 over time. We're much more knowledgeable today
18 than we were some years ago. And so we suggest
19 that caution should be exercised by the
20 Commission when you assess past events and past
21 responses to money laundering through the lens of
22 what we know today about money laundering. As
23 often said, hindsight is always 20/20.

24 And finally, BCLC acknowledges and
25 appreciates the efforts the Commission has taken
26 to date to speak with BCLC employees and learn
27 about BCLC's anti-money laundering efforts. To
28 that end, BCLC will continue to cooperate with
29 Commission counsel in providing witnesses,
30 documents, and other information as required.

31 And we look forward to the Commissioner,
32 with the assistance of his capable counsel,
33 developing meaningful and effective
34 recommendations that will enhance the ability of
35 all relevant parties to address money laundering
36 and the associated criminality in this province.

37 And while BCLC appreciates the Commission's
38 intention to meet what I'll call the tight
39 deadlines established under the Terms of
40 Reference -- and BCLC also seeks a timely
41 resolution of this process -- it is confident
42 that endeavouring to meet these ambitious
43 deadlines, that that will not come at the expense
44 of investing the time and attention needed to
45 thoroughly understand and address the
46 complexities of the topic before the Commission.

47 Those are our submissions. Thank you.

Opening Statement by Mr. Skwarok
Great Canadian Gaming Corporation

1 THE COMMISSIONER: Thank you, Mr. Smart.

2 MR. SMART: Before I sit down, I guess I'd better
3 wait.

4 THE COMMISSIONER: And Ms. Ramsay.

5 MR. SMART: Yes. Thank you.

6 THE COMMISSIONER: Thank you.

7 MR. SKWAROK: Great Canadian filed its opening
8 statement before the other presenters today.
9 I'll do my best not to be duplicative.

10 THE COMMISSIONER: Thank you.

11 MR. SKWAROK: But I can't guarantee that I'll be
12 successful.

13

14 OPENING STATEMENT BY MR. SKWAROK (GREAT CANADIAN
15 GAMING CORPORATION):

16

17 MR. SKWAROK: Great Canadian submits that the
18 Commission's analysis of money laundering in
19 British Columbia should be viewed in two
20 different contexts.

21 First, the context of how the gaming
22 industry and AML regime has evolved over time,
23 and why. Second, in the context of the company's
24 limited powers, duties and obligations in that
25 regime.

26 Great Canadian anticipates that the evidence
27 presented to this Commission will demonstrate
28 that many public criticisms that have been made
29 about its conduct and actions are factually
30 unfounded or have been overly critical. The
31 company has achieved a very high standard of
32 compliance with AML requirements and, in many
33 cases, has exceeded those requirements.

34 Great Canadian is a B.C. corporation with
35 operating subsidiaries in Ontario, Nova Scotia,
36 New Brunswick, and has a 40-year history in
37 British Columbia. It was the first gaming
38 operator in B.C. and is now the largest gaming
39 service provider in Canada.

40 Over the past years, significant concerns
41 have been raised about the risks of having
42 substantial amounts of cash entering into
43 casinos. It is submitted that the adequacy of
44 the steps taken to address money laundering
45 concerns should be assessed by considering the
46 evolution of gaming and not judged with the
47 benefit of hindsight.

Opening Statement by Mr. Skwarok
Great Canadian Gaming Corporation

1 Gaming in B.C. has always been predominantly
2 a cash business and still is. No credit is
3 offered. Cash is brought in by patrons or
4 withdrawn from cash machines. Great Canadian has
5 always been alert to potential money laundering
6 concerns and complied with the various AML
7 requirements.

8 However, in recent years there has been an
9 increasing recognition of potential risks of
10 money laundering. These changes in the
11 perception of risk coincided with a period of
12 very rapid growth in the industry, more gaming
13 offerings, and especially increased betting
14 limits, which went up to \$100,000 per hand in
15 2014. These changes led to more money coming
16 into casinos. However, in a cash-based business,
17 bringing in large amounts of cash into a casino
18 is not in and of itself an unusual event. There
19 are patrons who may win or lose large amounts, so
20 large cash buy-ins, without more, do not raise
21 concerns about possible money laundering.

22 There was no single crystallizing event that
23 led to the increased recognition of potential
24 risks of money laundering. A number of such
25 events will be considered during the evidentiary
26 part of the hearing. However, the increase in
27 cash buy-ins clearly was a notable factor.

28 As these concerns about potential money
29 laundering evolved, they were answered in the
30 forms of new rules and practices. It is
31 submitted that these developments and the context
32 in which they arose are important to keep in mind
33 when reviewing the adequacy of those responses.

34 I'll just briefly outline the regulatory
35 regime that Great Canadian finds itself in.
36 Gaming is one of the most, if not the most,
37 regulated industries in this country. As
38 Dr. German highlighted in his report, there is
39 arguably a greater emphasis placed on compliance
40 in the casino industry than in virtually any
41 other financial industry. As he noted, Great
42 Canadian is subject to a "dizzying array of
43 regulations and policies."

44 In B.C., Great Canadian is regulated by GPEB
45 and must abide by their policies and directives,
46 as well of those of the British Columbia Lottery
47 Corporation. And, since the company is licensed

Opening Statement by Mr. Skwarok
Great Canadian Gaming Corporation

1 to provide operational services in other
2 provinces, the company must comply with gaming
3 regulatory requirements in four different
4 jurisdictions.

5 Great Canadian is also a publicly-traded
6 company, which means it's required to comply with
7 all of the requirements of the Toronto Stock
8 Exchange and the provincial securities
9 commissions.

10 One of the consequences of being so highly
11 regulated is that Great Canadian's commitment to
12 the integrity of gaming is the paramount priority
13 for the company. If any of these regulators
14 determined that Great Canadian is not living up
15 to the standards that have been set, Great
16 Canadian would be unable to operate.

17 Just to be clear, compliance with AML
18 requirements is not just a good thing to do for
19 Great Canadian. It's a fundamentally critical
20 thing, precondition, to its continued existence.

21 Given the regulatory environment, it is not
22 surprising that Great Canadian spends millions of
23 dollars annually on compliance and has overseers
24 of the highest seniority in the company.

25 Now, the success of the AML regime in B.C.
26 is dependent on each of five distinct entities
27 doing their job and fulfilling their
28 responsibilities. They are the police, FINTRAC,
29 GPEB, BCLC, and service providers. If any one of
30 these organizations doesn't do their job, the
31 whole system collapses.

32 The police, of course, are responsible for
33 recommending criminal charges. We've heard about
34 FINTRAC and what it does. It's important to note
35 that FINTRAC regularly visits and audits service
36 providers like Great Canadian.

37 Under the *Gaming Control Act*, GPEB is the
38 regulator responsible for licensing. It also has
39 investigators who are clothed with the status of
40 special constable and they work either
41 independently or in conjunction with the police.
42 They are the investigators. GPEB too also
43 regularly visits and audits Great Canadian.

44 The British Columbia Lottery Corporation.
45 In order for a service provide to operate in
46 British Columbia, it must enter into an
47 operational services agreement with BCLC for each

Opening Statement by Mr. Skwarok
Great Canadian Gaming Corporation

1 facility. These agreements together with BCLC
2 standards, policies, rules, procedures and
3 guidelines are detailed and prescriptive as to
4 what Great Canadian must do as a service
5 provider. This includes AML compliance and
6 reporting.

7 BCLC has investigators on site at each of
8 its properties, and the company provides offices
9 for the investigators' use. The investigators'
10 job is to facilitate and monitor compliance with
11 AML reporting requirements, and BCLC receives
12 immediate notification of reports of unusual
13 financial transactions. BCLC also regularly
14 audits Great Canadian and hires third parties in
15 addition to conduct comprehensive audits.

16 BCLC has always worked closely with Great
17 Canadian while monitoring and supervising various
18 of its activities. Great Canadian has always
19 believed and continues to believe that the
20 British Columbia Lottery Commission is a
21 diligent, hard-working organization and a very
22 good one.

23 Lastly, we come to service providers. As
24 has been described by my learned friend for BCLC,
25 service providers are responsible for identifying
26 certain types of activities and reporting them to
27 BCLC and/or GPEB. Great Canadian is not
28 responsible for investigating criminal conduct.
29 Some people say to the contrary, but it's of
30 substantial importance that this reality be
31 recognized. It's not responsible for
32 investigating criminal conduct, including money
33 laundering.

34 The company is not a law enforcement agency
35 nor a regulator. It does not have, nor should it
36 have, the investigative powers or authority to
37 determine whether patrons are bringing in
38 legitimate funds or proceeds of crime. The
39 company's obligation is to report certain
40 financial transactions to others who do have the
41 training and authority to perform such
42 investigations.

43 In the next two pages I discuss the various
44 types of forms at paragraphs 18 through 22, I
45 guess. I talk about the forms. I don't want to
46 take up too much time describing them. I will
47 mention two in particular.

Opening Statement by Mr. Skwarok
Great Canadian Gaming Corporation

1 One of them is the Large Cash Transaction
2 report. This is a report that is filed whenever
3 a patron brings in more than \$10,000 cash at one
4 time or over a 24-hour period. One of the
5 requirements for completing an LCT, a Large Cash
6 Transaction report, is that the patron is
7 required to provide government-issued
8 identification and various personal details, all
9 of which are reported to BCLC, and in turn
10 FINTRAC, as part of the report. If a patron does
11 not provide the information, Great Canadian
12 refuses the buy-in.

13 Great Canadian also produces documents that
14 have been referred to as Section 86 reports,
15 referring to s. 86 of the *Gaming Act*. And what
16 these are are reports sent to GPEB that describe
17 information in every UFT, Unusual Financial
18 Transaction, that occurs in this province -- and
19 other things. And then on the UFT front, this is
20 a document that is prepared by Great Canadian
21 whenever they witness an unusual financial
22 transaction. An unusual financial transaction is
23 assessed by looking at a list of 43 indicators
24 published by BCLC in conjunction with FINTRAC.
25 BCLC reviews the UFT reports and determines
26 whether to file what's called a Suspicious
27 Transaction report with FINTRAC.

28 And just to put matters into somewhat of a
29 perspective, between the years 2014 and 2019,
30 just for River Rock, Great Canadian filed 125,000
31 LCT reports, 6,000 Unusual Financial Transaction
32 reports, and 18,000 Section 86 reports. These
33 reports and the reports filed by Great Canadian
34 for its other properties were variously directed
35 to BCLC, GPEB, FINTRAC, and the police.

36 The fact that a report is prepared does not
37 mean that money laundering or other criminal
38 activity is necessarily occurring. But these
39 numbers show that the company took its reporting
40 obligations very seriously.

41 As I mentioned, Great Canadian is monitored
42 by FINTRAC and audited by FINTRAC, GPEB and
43 British Columbia Lottery Commission --
44 Corporation. In addition, Great Canadian itself
45 conducts internal and external audits. It hires
46 third parties to audit its activities.

47 In short, the company's compliance

Opening Statement by Mr. Skwarok
Great Canadian Gaming Corporation

1 activities are checked, rechecked, and checked
2 again to ensure they meet appropriate standards.

3 If I may, I'd like to address one particular
4 myth that's been perpetuated about a form of
5 money laundering that allegedly takes place at
6 River Rock. It's been suggested in recent years
7 that patrons of Great Canadian laundered very
8 substantial amounts of money by buying chips with
9 large amounts of cash. They then would gamble
10 for a short period of time or make only small
11 wagers and then cash out and receive a cheque
12 from the casino for all of the chips cashed in.
13 This simply did not happen.

14 In 2017, the BCLC commissioned Ernst and
15 Young LLP to undertake a comprehensive analysis
16 of cheques issued by River Rock and the payees'
17 pattern of play for the three-year period from
18 January the 1st, 2014, through to December the
19 31st, 2016. This included a review of every
20 single cheque of \$10,000 or more related to table
21 game play. There was 2,031 such cheques. The
22 purpose of the review was to identify instances
23 of cheques issued to patrons that were not
24 supported by the patrons' gaming activity.

25 Ernst and Young's report, issued in February
26 2019, led BCLC to conclude that there was "no
27 systemic pattern of money-laundering activity
28 related to cheques being issued by River Rock
29 Casino during the three-year period of 2014 to
30 2016." To the extent that Ernst and Young's
31 review identified any errors, they were extremely
32 few in number and administrative in nature.

33 While Great Canadian's obligations in the
34 AML regime are limited to what is prescribed, it
35 has in many instances sought to go above and
36 beyond its narrow role of identifying and
37 reporting by implementing new procedures to
38 respond to the rapid growth of gaming in the
39 province. It has taken numerous steps to combat
40 money laundering on its own and in cooperation
41 with other parties.

42 For example, the company has consistently
43 supported and encouraged the use of technological
44 solutions, such as licence plate recognition
45 technology, at its facilities. This technology,
46 introduced by BCLC, assists the police in
47 identifying the location of certain individuals

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1 as well as assisting the casino in refusing entry
2 for self-excluded, trespassing or banned patrons.

3 In 2014, Great Canadian upgraded to a new
4 state of the art surveillance system at River
5 Rock. In 2016, using this technology, Great
6 Canadian was able to identify cash drop-offs from
7 suspected loan sharks or associates in its
8 parking lots and then track the associated
9 patrons to the casino. These persons' buy-ins
10 were refused.

11 Great Canadian has also implemented its own
12 background searches using an open-source search
13 system. This system allows the company to
14 conduct reviews of customers who were previously
15 unknown to Great Canadian and who produced
16 \$10,000 or more in cash. These searches are done
17 before buy-ins are accepted.

18 Great Canadian has also proactively brought
19 suspicious activities to the attention of the
20 police. For example, in 2012, Great Canadian
21 took the initiative to identify and report
22 suspected loan sharking activity taking place
23 within and around the River Rock Casino. This
24 resulted in several players being barred by BCLC
25 and reported to the police. Certain of these
26 individuals were subsequently associated with the
27 failed E-Pirate investigation and the unlicensed
28 money services business of Silver International
29 Investment. The evidence was forthcoming from
30 Great Canadian.

31 During these years, it's important to note
32 that Great Canadian's surveillance team has been
33 recognized by the police for excellence in the
34 performance of its duties. In 2012, the officer
35 in charge of the Richmond RCMP Detachment awarded
36 River Rock's surveillance team with a certificate
37 of appreciation in recognition of "continued
38 professional and timely assistance with criminal
39 investigations." Later, Richmond RCMP awarded a
40 second certificate of appreciation. This one was
41 in recognition of the surveillance team's
42 "outstanding assistance conducting surveillance
43 reviews for members beyond the scope of [its]
44 regular duties."

45 The company's dedication to emphasizing and
46 enhancing AML compliance was typified when the
47 board of directors directed that Great Canadian's

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1 compliance team was to be restructured. Terrance
2 Doyle became the company's chief compliance
3 officer a year ago. Mr. Doyle is the President
4 of Strategic Growth for the company and the
5 second highest officer of the company after the
6 CEO. He reports directly to the board of
7 directors, which includes the president and chief
8 executive officer.

9 The new compliance structure also includes
10 the positions of an executive vice-president of
11 compliance, vice-presidents of compliance in
12 British Columbia, Ontario and Atlantic regions,
13 and an executive director of AML. Other roles
14 include the development of an AML analyst
15 position, an AML reporting coordinator, and
16 additional large cash transaction clerks.

17 In addition, Great Canadian has a steering
18 committee comprised of key executives in the
19 company's operations, legal, compliance, and
20 privacy departments that deal with AML. The
21 company has created what's called an AML
22 Champions Committee comprised of subject matter
23 experts for each region, and a national AML
24 Operations Management Committee.

25 These governance and leadership
26 restructurings have been coupled with increased
27 training for gaming employees that go beyond the
28 training that BCLC gives. Outside of the gaming
29 sphere, Great Canadian has taken the initiative
30 to implement AML policies for all of its
31 hospitality and food and beverage operations, not
32 just the gambling operations.

33 Non-gaming employees have been trained to
34 identify indicators of potential money
35 laundering, and Great Canadian proactively
36 submits what are called voluntary information
37 records to FINTRAC whenever there are grounds to
38 suspect a non-gaming transaction may be
39 associated with money laundering.

40 The evidence that I anticipate will be heard
41 by this Commission will be that the company took
42 its obligations extremely seriously. If mistakes
43 were made by Great Canadian in identifying and
44 reporting certain transactions, they were
45 statistically few, of a minor nature, and were
46 the result of inadvertent human errors.

47 In conducting its inquiry, it may be

1 tempting for the Commission to look back with the
2 benefits of hindsight and say that service
3 providers like Great Canadian could have done
4 more, and sooner, to combat money laundering in
5 the gaming sector. However, the evidence will
6 show that Great Canadian consistently upheld its
7 obligations and exceeded them.

8 Those are my opening remarks. Great
9 Canadian looks forward to assisting the
10 Commission in its important work.

11 THE COMMISSIONER: Thank you, Mr. Skwarok.

12 MR. MCFEE: Mr. Commissioner, I'm in your hands. As
13 you know, we appear on behalf of James Lightbody,
14 the president and CEO of B.C. Lottery
15 Corporation. We won't need the 45 minutes
16 allocated to us but we'll probably take more than
17 the 15 minutes.

18 THE COMMISSIONER: I'm sorry. You may --

19 MR. MCFEE: We'll take more than the 15 minutes that's
20 left today but we won't take the 45 minutes that
21 are allocated to us.

22 THE COMMISSIONER: All right. Well, unfortunately, we
23 are required to vacate by 4:00 from the
24 courtroom. So we can either start with you now
25 and finish tomorrow morning, or we can adjourn
26 until tomorrow morning and commence at that time.
27 And I leave it up to you as to what --

28 MR. MCFEE: Yes, rather than break it up, I'd just as
29 soon start tomorrow morning. I know counsel for
30 Mr. Kroeker is here and ready to go after us.

31 THE COMMISSIONER: We'll do that at 9:30 tomorrow
32 morning, then. Thank you.

33 THE REGISTRAR: The hearing is now adjourned until
34 9:30 a.m. tomorrow morning.

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36 (PROCEEDINGS ADJOURNED TO FEBRUARY 25, 2020,
37 AT 9:30 A.M.)
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