

**PROCEEDINGS AT HEARING  
OF  
FEBRUARY 17, 2021**

**COMMISSIONER AUSTIN F. CULLEN**

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**February 17, 2021**

**(Via Videoconference)**

**(PROCEEDINGS COMMENCED AT 9:30 A.M.)**

THE REGISTRAR: Good morning. The hearing is now resumed. Mr. Commissioner.

THE COMMISSIONER: Yes. Thank you, Madam Registrar.

**ERIN SEELEY, a witness  
for the commission,  
recalled.**

**DAVID AVREN, a witness  
for the commission,  
recalled.**

THE COMMISSIONER: And, Ms. Rose, just before we resume with the Real Estate Council evidence, I was reminded this morning that we have court reporters who are working away feverishly in the background to ensure that we get transcripts in as timely a way as possible and that they both need and deserve 15-minute breaks every day. I think from time to time we take shorter breaks just in the interests of moving things along, but I'm quite persuaded that it's necessary to take those 15-minute breaks midway through the process to enable them to recharge their batteries. So I just wanted to make that clear

1                   to all counsel that we won't be taking shorter  
2                   breaks, but if necessary of course we'll sit a  
3                   little longer to make up for necessary time  
4                   loss. All right. Thank you.

5                   MS. ROSE: Thank you, Mr. Commissioner, and I will  
6                   certainly keep that in mind for today's  
7                   evidence.

8                   THE COMMISSIONER: Yeah, that certainly wasn't a  
9                   rebuke to you. I don't think you took a shorter  
10                  break or --

11                  MS. ROSE: No, and I certainly didn't take it that  
12                  way. Thank you, Mr. Commissioner.

13                  THE COMMISSIONER: All right. Go ahead. Thank you.

14                  MS. ROSE: So today, Mr. Commissioner, you'll recall  
15                  that we are continuing with the evidence of two  
16                  witnesses from the Real Estate Council of BC.  
17                  It is CEO Ms. Erin Seeley and the VP of legal  
18                  and compliance Mr. David Avren.

19                               And so I believe that we left off our  
20                               evidence yesterday in discussing the duties to  
21                               report misconduct of other real estate  
22                               licensees. So I'll just propose to continue a  
23                               little on that topic.

24                   **EXAMINATION BY MS. ROSE (continuing):**

25                   Q     So, Ms. Seeley, I think -- and Mr. Avren -- we

1           discussed the duty of a licensee to report  
2           another licensee to their managing broker. Can  
3           you tell me, is there any obligation on real  
4           estate licensees to report other types of  
5           professionals that they -- other professionals  
6           that they deal with in the course of their  
7           business such as mortgage brokers, appraisers,  
8           lawyers, other professionals?

9           A       (ES) Thank you, Ms. Rose, for the question. I  
10          think there is nothing in the statute that  
11          requires that reporting. The practice guidance  
12          that is provided to licensees speaks to the need  
13          where licensees are referring to other service  
14          providers -- whether they be notaries or lawyers  
15          or mortgage brokers, to the need ideally to  
16          provide a list and to not prefer one over the  
17          other and manage professional ethical  
18          obligations in that way.

19                 And there are also, as I mentioned in  
20          yesterday's testimony, requirements around  
21          disclosure of referral fees. So while those are  
22          not the same as reporting, they do shed  
23          transparency on the relationships that a  
24          licensee may have between other service  
25          providers and any remuneration that may be

1                   earned from that relationship.

2                   Q     And on the topic of referrals, you'd agree that  
3                   the real estate industry is one in which  
4                   referrals are common?

5                   A     (ES) Given the number of players in a real  
6                   estate transaction, the number of service  
7                   providers, yes, I think it is common, as I  
8                   mentioned, whether it be notaries, lawyer,  
9                   appraisers, mortgage brokers. There's a series  
10                  of relationships often and the more complex the  
11                  transaction, the more -- the greater the number  
12                  of service providers.

13                  Q     And is the fact of the industry being a  
14                  referral-based one, does that make it difficult  
15                  or does that impede or disincentivize a  
16                  licensee's likelihood of reporting another  
17                  professional?

18                  A     (ES) I would refer back to a comment I made  
19                  yesterday. I think the relationship-based  
20                  nature of the profession, the reputation that is  
21                  paramount to success given the sales focus does  
22                  create incentives to work collaboratively and  
23                  work together. The penalties that exist in the  
24                  regulatory regime, the transparency around the  
25                  reporting certainly try to aid that ethical

1 work. I don't know that I would say there's a  
2 systemic disincentive, but I think there is  
3 profit motivation across that can present those  
4 ethical questions and the challenges.

5 Q And is there any obligation on real estate  
6 licensees to determine if the other  
7 professionals that they work with are properly  
8 licensed or qualified?

9 A (ES) Again, that is part of the professional  
10 guidance that's provided. We have a practice  
11 standards manual, a professional standards  
12 manual and a brokerage standards manual. In  
13 both those cases they speak to some of the  
14 opportunities when referring service providers  
15 to clients to ensure they meet the licensing  
16 requirements to make it clear that they're not  
17 preferring one over the other and to leave that  
18 in the hands of the client to make the decision  
19 that's best for them.

20 (DA) Maybe I can just add that if there were  
21 a degree of negligence in ascertaining the  
22 qualifications of another professional, that  
23 could be a disciplinable matter. There's a duty  
24 to act in the client's best interests of course,  
25 and if there were indications that the --



1                    whoever it was was not properly licensed, that  
2                    could be a breach of that duty perhaps amongst  
3                    others.

4            Q        With the view that if a client is receiving  
5                    services from another professional who is not  
6                    properly qualified that that would not be in the  
7                    client's best interest?

8            A        (DA) Absolutely. Correct.

9            Q        And I understand -- we've already had into  
10                    evidence the information-sharing agreement that  
11                    the Real Estate Council has with the registrar  
12                    of mortgage brokers. Perhaps you could describe  
13                    when you receive a complaint that touches on  
14                    potential misconduct by another professional,  
15                    how does the Real Estate Council proceed with  
16                    that? Is there a referral process or how does  
17                    that work?

18           A        (DA) You're speaking of a complaint against a  
19                    professional regulated by another professional  
20                    body?

21           Q        Well, where -- pardon me. I certainly phrased  
22                    the question a little awkwardly. Where the Real  
23                    Estate Council receives a complaint about a real  
24                    estate licensee but the facts of the complaint  
25                    potentially implicate another type of

1 professional, how -- are there -- does the Real  
2 Estate Council take any steps or how would the  
3 council deal with that?

4 A (DA) Well, there are two ways we would deal with  
5 it. One is encourage the complainant who is  
6 coming to us to go forward to the other  
7 regulatory body and make a complaint there. And  
8 that's in the context often of police matters,  
9 matter that could be criminal matters that would  
10 often be our first resort.

11 The other consideration that we have for our  
12 own dealing with it are the privacy provisions  
13 of the *Freedom of Information and Protection of*  
14 *Privacy Act*. They do allow -- I think it is  
15 under 30.1(1) -- disclosure of personal  
16 information for the regulation of, you know,  
17 professionals by regulatory bodies. So that's a  
18 significant and important exemption to the  
19 general restrictions on sharing of personal  
20 information, but it would permit us to provide  
21 information to another regulatory body  
22 respecting one of their licensees, one of their  
23 registrants, who may have been guilty of  
24 misconduct under their legislation. So we can  
25 do that and do do that from time to time.

1           Q     Could you speak to how common is it for the Real  
2                   Estate Council to refer matters to another  
3                   regulatory body?

4           A     (DA) It wouldn't be frequent. We don't see it  
5                   that often. I'm being a little impressionistic  
6                   here because I don't get into the weeds in terms  
7                   of the actual complaints received and their  
8                   details. The volume is too high and it's, in my  
9                   position, head of both legal and compliance,  
10                  better to keep myself removed. But I would say  
11                  it would be less than -- probably less than a  
12                  dozen times a year.

13          Q     And could you speak to how many times the Real  
14                  Estate Council receives referrals from other  
15                  regulatory bodies?

16          A     (DA) It would be of a similar magnitude, you  
17                  know, in the order of maybe a dozen times a  
18                  year. Sometimes it is information that they  
19                  have acquired through their mandate and through  
20                  their investigations, through their complaints  
21                  or anonymous tips process. Other times it might  
22                  just be drawing our attention to a news report  
23                  or a court decision that implicates one of our  
24                  licensees and, you know, those -- both of those  
25                  happen probably in about equal measure.

1           Q     And are you aware that -- I believe at the time  
2                   it was FICOM but now the BCFSA referred to the  
3                   Real Estate Council of BC a number of realtors  
4                   that were involved in the unregistered mortgage  
5                   brokering matter involving Mr. Jay Chaudhary?

6           A     (DA) Yes, I have some familiarity with that at a  
7                   high-ish kind of level.

8           Q     And could you speak to approximately how many  
9                   realtors were involved in that referral?

10          A     (DA) There are -- there were 28 referrals, which  
11                 I think 26 were licensed realtors. And to cut  
12                 to the chase on that, there are 11 presently  
13                 under investigation, another five awaiting  
14                 referral for investigation. That's just a  
15                 volume restraint on that. And there are another  
16                 10 that are flagged in our system. In the event  
17                 they were to apply for re-licensing, they would  
18                 then be -- there would then be a process to give  
19                 special review in their instances and ultimately  
20                 they may be investigated too.

21          Q     And you said they're presently under  
22                 investigation. Have any realtors -- I should  
23                 say real estate agents faced any disciplinary  
24                 hearings or sanctions as a result of this  
25                 referral?

1           A       (DA) Not yet as they're still in investigation.

2           Q       Okay. And would a licensee referring their  
3                   client to a mortgage broker that they know to be  
4                   unregistered be a problem from the Real Estate  
5                   Council of BC's perspective?

6           A       (DA) I think so. And as I described earlier, I  
7                   think if they were aware that someone didn't  
8                   possess the necessary credentials to carry out  
9                   their activity or should reasonably have been  
10                  aware, that would have been -- that would likely  
11                  be a disciplinable matter, if it's as simple as  
12                  that.

13          Q       Could you -- you mentioned just a moment ago  
14                   that there might be a sort of enhanced  
15                   suitability review for individuals who are  
16                   flagged in your system when their licence comes  
17                   up for renewal. Could you just expand on that a  
18                   little.

19          A       (DA) Well, I think you'll have our Mr. Michael  
20                   Scott, who's director of compliance, next week  
21                   and he can perhaps get into a little more detail  
22                   on that. But it's -- if a person that has a  
23                   flag our system, such as the 10 I described  
24                   here, the 10 of the 26 who were licensed, apply  
25                   for their renewal as they do on their two-year

1 cycle, then at that point there would be  
2 communications with them which indicate that  
3 there are issues and they're going to be  
4 investigated. I think as a result of that kind  
5 of discussion a couple of them decided not to  
6 proceed with their reapplications. And for  
7 those that intended to proceed there would be a  
8 priority form of investigation in relation to  
9 that renewal application. So it would be like a  
10 discipline investigation but with focus on the  
11 elements necessary for a -- to meet our good  
12 reputation fitness and suitability standards for  
13 that re-licensing, slightly different but  
14 related.

15 Q And from a -- and I do appreciate that we will  
16 be having Mr. Scott testifying at a later date  
17 and I'm not asking you to speak too much in the  
18 weeds on this. But from a policy level,  
19 Mr. Avren, is there a sort of policy decision on  
20 proceeding with this review or investigation at  
21 the stage of the renewal of application or the  
22 renewal of their licensing application as  
23 opposed to just beginning it now?

24 Oh, I'm sorry, you're muted, Mr. Avren.

25 A (DA) I'm on mute. My apologies. Is there a

1 policy decision in terms of which ones are  
2 assigned for investigation and which ones are  
3 assigned for flagging in the licence renewal  
4 system? Is that the essence of it?

5 Q I'm just wondering -- yeah, you mentioned that  
6 that there's sort of a flag for when these  
7 individuals apply for re-licensing. I'm  
8 wondering if you can explain why it would be --  
9 why you would wait for an application for  
10 renewal and not simply investigate those  
11 individuals now.

12 A (DA) Yeah, it's -- as I described, there --  
13 it's really a volume issue. We have high volume  
14 and, you know, we'll probably talk about that a  
15 little bit later. But there's -- coping with  
16 the volume is a significant issue at the  
17 council, the volume of complaints, and there's a  
18 history to that. So as I say, 11 are under  
19 investigation, five are awaiting assignment.  
20 What I mean awaiting assignment, the  
21 investigators that we have have their plates  
22 already very full with matters to investigate  
23 and it's not really a good thing to sort of bury  
24 them in volume. It doesn't lead to good  
25 outcomes or efficient outcomes. So they are

1 sort of in the hopper awaiting something removed  
2 from their plate so something else can come on.

3 And the other 10 that remain, that's 16  
4 neither being investigated or just outside the  
5 investigation sphere awaiting assignment, they  
6 would have been investigated but it's a volume  
7 concern. And that's our next best measure to  
8 ensure they do not slip through the system  
9 without attention being paid given the issues  
10 that have been raised.

11 So it's not ideal, but it's attempting to be  
12 optimal given the resource constraints, given  
13 the volume issues. Not to suggest they're  
14 receiving inattention or are somehow regarded as  
15 outside the disciplinary realm, but it's to make  
16 sure that it receives attention at a key moment  
17 and can be dealt with probably in an expedited  
18 way and perhaps an even more efficient way.

19 Q Ms. Seeley, did you have anything to add to  
20 that?

21 A (ES) Sure. I just wanted to make two points.  
22 One is -- and Mr. Scott, the director of  
23 investigations and compliance can speak to  
24 this -- there is an intake process. So there is  
25 a risk assessment as well as a volume



1                   consideration and that would go with referrals  
2                   as well. The other element of flagging in the  
3                   system is it prevents any attempt to transfer  
4                   the licence to another brokerage and it  
5                   maintains the relationship with the licensee and  
6                   the existing brokerage in terms of the managing  
7                   broker's oversight.

8                   And that is important because there are a  
9                   number of transfers that can happen. Licensees  
10                  can move from brokerage to brokerage. So the  
11                  other element of flagging in the system is not  
12                  only at renewal but it prevents movement and it  
13                  can enable conditions that can be imposed with  
14                  the agreement of the licensee on the licence as  
15                  well. And that's a tool that the Real Estate  
16                  Council has used in investigative circumstances  
17                  where it has identified a risk perhaps and due  
18                  to maybe volume or other considerations isn't  
19                  yet fully completing the investigation.

20                  So there are other elements that I'm  
21                  actually sure Mr. Scott can speak to in more  
22                  detail and the tools he would use with the team  
23                  to triage and manage that.

24                  Q       And just for the Commissioner's benefit, I  
25                  understand that many of the details on the

1 volume of complaints received by the Real Estate  
2 Council and the staffing of the department are  
3 set out at exhibit 603, which is the overview  
4 report on legislative and regulatory structure  
5 of real estate in BC, and my understanding is  
6 that begins at page 46.

7 So I think this is a question for you,  
8 Mr. Avren. Can you say, would it be considered  
9 serious misconduct if the real estate agent knew  
10 that an unregistered mortgage broker was -- or a  
11 registered one for that matter was fraudulently  
12 altering documents?

13 A (DA) Yes.

14 Q And can you speak to whether or not the Real  
15 Estate Council has given investigations from  
16 this referral source any type of priority over  
17 other investigations?

18 A (DA) Yes, and we assign them to our most  
19 experienced investigators. Mr. Scott himself  
20 keeps a hand in these and we have two other  
21 investigators who are ex-police or RCMP with  
22 AML-related training going along with that.  
23 That's coincidental almost but have the most  
24 experience in dealing with these serious  
25 matters, so they are more involved than the

1                   other investigators. So they are receiving that  
2                   kind of seriousness in approach, yeah.

3           Q       And I understand -- is it the case that the Real  
4                   Estate Council has received complaints involving  
5                   allegations of money laundering?

6           A       (DA) We receive many -- there are many  
7                   complaints where there are what you might call  
8                   sort of throwaway allegations of money  
9                   laundering. Some would be the anonymous tips.  
10                  Some would just be XYZ is going on and they're  
11                  probably money laundering. We look at all of  
12                  those, but if there isn't substance to them, we  
13                  don't pursue them as money laundering matters.

14                         At present we have six investigations that  
15                         relate to anti-money laundering, whether it's a  
16                         matter of compliance or whether it's a matter of  
17                         participation in a suspected money laundering  
18                         scheme. One of those was referred by the RCMP  
19                         and one of those has arisen by reason of  
20                         information FINTRAC brought to us. So we have  
21                         six at the moment. So we do. They are actually  
22                         quite a number, but as I say they're often just  
23                         throwaway allegations, casual allegations  
24                         without support.

25           Q       With respect to the six that -- if I can use

1                   this word, that you've considered to be credible  
2                   or perhaps substantiated, not just throwaway  
3                   allegations, are there -- do these arise in  
4                   particular circumstances or are there trends or  
5                   commonalities?

6           A       (DA) You'll have to save that for Mr. Scott.

7           Q       Okay. And are there any of these cases that  
8                   have received sanction or otherwise in the  
9                   public realm that you can tell us a little bit  
10                  about?

11          A       (DA) Well, We've only had one matter that was  
12                  related to money laundering that we've  
13                  disciplined. That was a licensee named Yan Wen  
14                  known also as Isabel Wen, and it's on our  
15                  website. She was disciplined by way of what  
16                  they call a consent order in -- I think it was  
17                  May of 2019, suspended for nine months and fined  
18                  and conditions were imposed in the event of  
19                  re-licensing. She actually relinquished her  
20                  licence for a period of time. And enhanced  
21                  supervision and that was really -- there were a  
22                  number of elements of misconduct there, but  
23                  there was a specific element of misconduct,  
24                  conduct -- we termed it "conduct unbecoming,"  
25                  the element related to the participation in and

1                   evasion of money laundering requirements. She  
2                   essentially received funds from an associate of  
3                   the purchaser overseas and received them into  
4                   her personal account to knowingly -- knowing  
5                   that it was an evasion of the requirement that  
6                   the funds, A, go to the brokerage, and B, that  
7                   the -- that there be client identification rules  
8                   engaged and so on in respect of this associate  
9                   because the funds weren't coming from the  
10                  previously identified purchaser herself.

11                Q    And so just to put a bit of a finer point on it,  
12                   what are the -- what risks does that fact  
13                   pattern present from a money laundering  
14                   perspective?

15                A    (DA) It doesn't permit the brokerage itself to  
16                   determine and make suspicious transaction  
17                   reports and engage their recording systems and  
18                   the various elements of a compliance program.  
19                   So perhaps there are -- there is money  
20                   laundering beyond that, but the brokerage would  
21                   not have been able to trigger that kind of  
22                   examination. In fact the transaction didn't  
23                   proceed. I think there were elements of  
24                   a prospective immigration involved as well and  
25                   that -- at least at that time, as we understood,



1                   misconduct, it may be -- may very well be that  
2                   the managing broker by ensuring supervision  
3                   could have prevented or mitigated that  
4                   misconduct and there could be a failure on the  
5                   managing broker's part. There are instances,  
6                   thankfully rare, where the managing broker is  
7                   actually misadvising the licensee through a  
8                   failure of the managing broker themselves to  
9                   understand things like conflict of interest  
10                  properly. We have one appeal with The Financial  
11                  Services Tribunal by one such at the moment.

12                                We would -- it's rare that a complainant, a  
13                                consumer, a user of -- someone who's buying or  
14                                selling actually complains about the managing  
15                                broker. The managing broker is largely  
16                                invisible to them. It does happen, but it's  
17                                rare. That would normally be -- the managing  
18                                broker's involvement is normally something we  
19                                would consider and would be revealed to us  
20                                through an investigation. We would typically  
21                                ask for deal files depending on the issue. If  
22                                it involves transactional conduct as opposed to  
23                                onsite conduct, for example. And the managing  
24                                broker's role in that would become apparent.

25                                        We would be concerned if the managing broker

1                   were guilty of a degree of -- you can call it  
2                   negligence, carelessness or incompetence, and we  
3                   would particularly be concerned about that and  
4                   perhaps even something closer to the proper  
5                   standard if there were consumer harm. That  
6                   would be a significant aggravating factor. And  
7                   even where the managing broker has been, say,  
8                   more innocent than there's been a slip -- let's  
9                   just call it a slip, but where there's been  
10                  consumer harm that would be a significant factor  
11                  and whether the managing broker should be  
12                  disciplined as well. But certainly  
13                  incompetence, negligence, indifference would be  
14                  key factors.

15                Q    And how often -- when a licensee receives  
16                    sanction by the Real Estate Council, how often  
17                    is a managing broker found to have failed to  
18                    adequately supervise their licensee?

19                A    (DA) We discussed this outside the hearing and I  
20                    think I overestimated the frequency to you of  
21                    that. I would say -- and I took the occasion  
22                    over the weekend to go through and look at some  
23                    of the more recent orders and contacts. I think  
24                    it's more -- it's probably more like 10 percent  
25                    than the higher percentage I indicated to you in



1                   our prehearing preparation discussions. So  
2                   yeah, it would probably be more like 10 percent  
3                   of the time where we find a managing broker  
4                   being pulled in because of a licensee's  
5                   misconduct and disciplined as a managing broker  
6                   for that.

7                   Q     You mentioned a particular case in which -- that  
8                   is currently under appeal involving misconduct  
9                   by a managing broker. Could you speak to the --  
10                  could you elaborate on the facts of that case.

11                 A     (DA) There -- as I recall, it will be the  
12                  online, the case is online. It's currently  
13                  the -- there are two cases with The Financial  
14                  Services Tribunal and it's one of the two, so  
15                  facts will be available online through our  
16                  website and theirs. But essentially the -- as I  
17                  recall, the licensee was wanting to ensure a  
18                  transaction, the licensee being the  
19                  representative of the person involved in the  
20                  sale and purchase, was wanting to lend in order  
21                  to -- to the purchaser to see that a transaction  
22                  went ahead. This happens sometimes. But that  
23                  engages a whole lot of other considerations.  
24                  Independent legal advice, conflict of interest,  
25                  et cetera.

1                   And the managing broker was consulted quite  
2 properly, how do I go about this, and simply  
3 gave the wrong advice. I think it was  
4 determined to be a failure of understanding of  
5 conflict of interest and what could be done and  
6 how it could be done. So a serious kind of  
7 thing. Conflicts of interest can be -- you  
8 know, are key in so many business relationships  
9 and business undertakings these days and have to  
10 be understood at least to a certain level. Even  
11 lawyers struggle with that from time to time.  
12 So it's a matter of importance for realtors and  
13 they probably struggle a little more even given  
14 the lack of the thorough legal training. But  
15 it's important at the managing broker level  
16 given the nature of the guidance they are  
17 expected to give that they get the basics right.

18           Q    And on a more -- a higher level view, what gaps  
19 or weaknesses are there in the legislation that  
20 inhibit the ability of the Real Estate Council  
21 to appropriately respond to misconduct?

22           A    (DA) In the -- I'm not sure we -- can you be --  
23 do you have anything in particular in mind? The  
24 things that inhibit our ability to respond to  
25 misconduct are largely the volume of complaints,

1                   our resourcing and then ensuring staff is  
2                   recruited and trained. So those are the  
3                   greatest inhibitors and those are largely  
4                   practical on the ground issues.

5                   The legislative scheme is a good scheme. It  
6                   has its complications, and I think it has its  
7                   complications from the licensee's point of view  
8                   in terms of following the rules and  
9                   understanding them, but the tools are there for  
10                  us by and large. The penalties now are very  
11                  adequate and I think are being taken very  
12                  seriously by the licensee -- by licensees as a  
13                  whole. They're certainly lawyering up more as a  
14                  result of that and that, you know, is helpful in  
15                  many ways but the legislative scheme I think is  
16                  generally adequate. It has its points of --  
17                  where it could be perhaps streamlined a little  
18                  bit more. Some of those might be addressed  
19                  through the coming legislation associated with  
20                  the amalgamation. But it works reasonably well  
21                  and is reasonably competent to the mandate it  
22                  wants to give us.

23                  Q     Would you consider the fact of the legislation  
24                  providing an automatic stay to those that appeal  
25                  their sanctions to be a problem?

1           A       (DA) I think it is. I think it's recognized by  
2                   those of us on the regulatory side that it is.  
3                   What happens there is the reverse. I think this  
4                   pertains in the mortgage broker situation as  
5                   well, and these are the only two exceptions to  
6                   the normal rule. As Mr. Commissioner will well  
7                   know, normally the decision not automatically  
8                   stayed. It pertains and the person subject to  
9                   an order or decision has to apply either to the  
10                  tribunal complaint of or to its superior  
11                  tribunal on appeal to have the effect of the  
12                  order stayed and the burden is on them, the duty  
13                  is on them, the playing field is sloped  
14                  accordingly.

15                         The opposite pertains in the *Real Estate*  
16                         *Services Act* -- I believe the *Mortgage Brokers*  
17                         *Act* as well -- so that once an appeal is filed,  
18                         and an appeal costs something like \$800,  
19                         relatively small change in relation to real  
20                         estate potential earnings, the decision is  
21                         stayed. The matters can take, you know,  
22                         anywhere from one to three years to resolve  
23                         through the appeal process and meanwhile the  
24                         licensee is able to continue to practice.

25                                 The ability to continue to practice I think

1 shocks the public who are familiar with the  
2 circumstances. There are some -- probably  
3 notorious isn't too strong a word of licensees  
4 who have been subject to discipline and  
5 suspension orders, but those have been  
6 automatically stayed and they're able to  
7 continue to practice with the commensurate kinds  
8 of advertisements that we all see publicly. And  
9 we receive inquiries, I thought so and so was  
10 suspended; what there are they doing still out  
11 there? And it's attributed to the council and  
12 the regulatory system as a failure of the system  
13 when actually it's part of the legislative  
14 structure.

15 In a recent matter we applied ourselves to  
16 have the automatic stay stayed, if you will. So  
17 the normal situation was reversed and that was  
18 after, you know, a couple of appeals actually in  
19 the matter and we were successful. But we  
20 weren't successful on the basis of threat to the  
21 public interest; we were successful on the basis  
22 that no matter what the outcome of the appeal  
23 was it was almost certain that the -- having the  
24 stay come into effect for whatever period would  
25 cause no greater harm to the licensee involved

1 at the end of the day because they're almost  
2 certainly going to be subject to a long period  
3 of stay given the kind of scrutiny and the two  
4 levels -- two appeals that had been held  
5 already.

6 I don't know if that makes sense. I  
7 probably described it in a more complicated way  
8 than I should have. So it wasn't set aside on  
9 the normal concern about public harm or risk to  
10 the public, although that would be a factor.  
11 This won't make any difference to you at end of  
12 the day because you're going to be suspended  
13 likely, almost certainly, for at least the  
14 period that would be involved in the setting  
15 aside of the automatic stay.

16 Q I take it that the appeal process that you've  
17 just described is in relation to one of the  
18 notorious cases that you referred to?

19 A (DA) Yes. To put a name to it it's Behroyan,  
20 B-e-h-r-o-y-a-n, and all of that facts of that  
21 are either on The Financial Services Tribunal's  
22 website our website or in the newspapers.

23 MS. ROSE: Okay. Madam Registrar, I would ask a  
24 document to be displayed on the screen. It's  
25 the Real Estate Council of BC administrative

1 penalty guidelines.

2 Q And perhaps while she's doing that, Mr. Avren,  
3 could you just describe what the -- those  
4 penalty guidelines are?

5 A (DA) Yeah. I'd give you a little bit of history  
6 here. We have a concern about volume, as I've  
7 mentioned. We haven't gone into detail about  
8 that. Our disciplinary system had a significant  
9 gap in it that I think it's been perceived for  
10 some time, and I certainly perceived it when I  
11 arrived two and a half years ago. And that gap  
12 is between what we call letters of advisement,  
13 which are warning letters essentially -- and  
14 they have a scale to them. Some are merely  
15 just, you could do a little better; pull up your  
16 socks, others are, you're lucky you weren't  
17 charged here; you could have been. And the  
18 formal discipline process which is resolved  
19 either by a full disciplinary hearing. Our most  
20 recent one was about a two and a half week  
21 hearing, significant resource use and so on. Or  
22 a consent order, which is an agreed resolution  
23 taking cognizance of the circumstances and the  
24 various likelihoods of proof and the cost and  
25 making an order which is equivalent to that

1                   which would emerge from a full disciplinary  
2                   hearing. So there's a gap in there.

3                   There are a number of matters that go by  
4                   letters of warning which could be easily handled  
5                   which probably do merit some disciplinary  
6                   response, at least in terms of a fine. And  
7                   there are matters that go to the consent order  
8                   process, the full order process, which is a  
9                   fairly elaborate process which could be handled  
10                  more efficiently.

11                  The act -- the *Real Estate Services Act*  
12                  provides for administrative penalty guidelines.  
13                  Those have to be implemented in a specific way  
14                  by the adoption of rules. There were rules that  
15                  permitted administrative penalties, but the  
16                  penalties were low and they tended to be simply  
17                  back office-type offences. Failures to file  
18                  financial statements on time. So if you file  
19                  your annual report a week late you can be fined  
20                  \$625. So it wasn't as effective a tool as it  
21                  could be.

22                  So with the -- working with the  
23                  superintendent of real estate over -- it took  
24                  over two years. We developed an  
25                  administrative -- a completely revamped



1 administrative penalty scheme, fairly  
2 sophisticated four categories of penalty with  
3 varying penalty responses at varying penalty  
4 levels, 1,000, 2,500 and 5,000, doubling on  
5 subsequent contraventions which are every -- and  
6 a subsequent would have to occur within a  
7 five-year period of the prior one. And daily  
8 penalties. And the act isn't congenial to the  
9 creation of daily penalties so we had to design  
10 something more complicated, administrative  
11 penalty system, to afford the possibility of  
12 daily penalties.

13 The purpose of daily penalties and the  
14 purpose of all these schemes is to ensure, A,  
15 protect the public, but B, to do so by ensuring  
16 compliance with the rules. Better compliance.  
17 It's not to punish people. That's, you know,  
18 kind of a last resort, but it's to encourage  
19 compliance. The daily penalties are designed in  
20 a way to encourage compliance, not merely to  
21 punish. And so these penalty guidelines are  
22 adjunct to the rules that have been developed.

23 Those new rules which set out an expanded  
24 list of administrative matters, which can be  
25 subject to administrative penalties, they are

1           all in the matters that are contraventions of  
2           the real estate rules and their associated  
3           penalties. Those came into effect just less  
4           than three weeks ago on the 1st of February.  
5           And these administrative penalty guidelines are  
6           the real estate council's medium level  
7           expression of how it will apply the  
8           administrative penalty guidelines, how it will  
9           interpret some of the language in the rules and  
10          how it will just -- it's partly for our own  
11          guidance but it's partly for the guidance of  
12          licensees so that they will have a better  
13          understanding of the -- our approach to  
14          administrative penalties.

15                   And as I say, it does better define or give  
16          substance to some of the terms which might  
17          otherwise be too uncertain for licensees. In  
18          the rules, for example, licensees must respond  
19          promptly to any inquiry by council. And what  
20          does "promptly" mean. We've set out here that  
21          it would normally mean within two business days  
22          to give some substance to things. So everyone  
23          knows what they're probably going to be dealing  
24          with.

25           Q       Right.

1           A       (DA) That's a very long answer to a very short  
2                    question.

3           Q       That's all right.

4           MS. ROSE: Madam Registrar, I'm hoping you can assist  
5                    me with the next exhibit number.

6           THE REGISTRAR: Mr. Commissioner, the next number is  
7                    619.

8           MS. ROSE: OKAY. So, Mr. Commissioner, I would ask  
9                    that this be marked as exhibit 619, please.

10          THE COMMISSIONER: Yes. Very well. Thank you.

11                   **EXHIBIT 619: RECBC Administrative Penalty**  
12                   **Guidelines 2021**

13          MS. ROSE: We can take to down off the screen now.

14          Q       So I understand that the IAG report that we  
15                    discussed yesterday at exhibit 618, I understand  
16                    THAT it made a recommendation to -- that that  
17                    the Real Estate Council disgorge proceeds of  
18                    misconduct from licensees and brokerages. Has  
19                    this been done or considered?

20          A       (DA) Yes.

21          Q       Or do you have the authority to do that?

22          A       (DA) We do make orders for disgorgement of  
23                    benefits received. There haven't been many.  
24                    The new penalty levels under the *Real Estate*  
25                    *Services Act* when it was amended effective 30th

1                   of September 2016 set such a high level that in  
2                   effect you're able to order disgorgement without  
3                   actual resort to the disgorgement section itself  
4                   or a penalty which comprehends not -- isn't  
5                   specifically disgorgement but comprehends the  
6                   amount of benefit received and penalizes in  
7                   addition to that.

8                   So from a practical points of view the  
9                   disgorgement provisions aren't absolutely  
10                  necessary but we do use them to make express  
11                  statements. The disgorgement doesn't go to  
12                  the -- to any wrong member of the public. It's  
13                  treated as normal penalties are, which is  
14                  devoted to educational purposes within the  
15                  council, presumably to -- as a policy matter to  
16                  make sure that there's no incentive --  
17                  operational incentive within the regulator to  
18                  fine as much as possible.

19                  Sometimes there's an apprehension out there  
20                  that we want to fine licensees because we have  
21                  more -- that enhances our own financial  
22                  position. That's not the case. These funds  
23                  have to be designated for educational purposes.

24                  Q     So I'd like to turn now to canvassing some of  
25                  the anti-money laundering obligations of real

1 estate licensees. And I know we're a little  
2 short on time, so I will try to do my best to  
3 move through this as expeditiously as possible.

4 A (DA) It's probably my answers, not your  
5 questions.

6 Q I'm actually sure that's not the case. So the  
7 first topic underneath the anti-money laundering  
8 obligations of licensees that I wanted to  
9 canvass is that of the client identification and  
10 verification. So -- and I think this is  
11 probably a question for Mr. Avren, but correct  
12 me if I'm wrong. Is there an obligation on real  
13 estate agents to collect information about a  
14 client's financial resources or ability to pay  
15 or source of funds to obtain real estate?

16 A (ES) I can speak to that one. There is no  
17 requirement beyond the client identification to  
18 verify provenance of funds on the real estate  
19 licensee side. Now, having said that there is a  
20 requirement for suspicious transaction reporting  
21 and part of the client ID verification is  
22 understanding the factors, the motivations for  
23 the purchase, the client's personal background  
24 and, as the anti-money laundering training  
25 program identifies, looking for red flags in

1                   that client identification process can lead to  
2                   suspicious transaction reporting.

3                   So, for example, where you have a client  
4                   purchasing a significant residential property of  
5                   great value and yet they don't have an  
6                   occupation that you might correlate to having  
7                   the earnings to be able to pay for it. So a  
8                   student, for example, buying property like that.  
9                   And so while it's not explicit in the *Real*  
10                  *Estate Services Act* and the regulatory  
11                  requirement here, it is linked to that  
12                  suspicious transaction reporting.

13                  There are other elements, though, that I  
14                  think complicate that with respect to the  
15                  features of the British Columbia housing market.  
16                  So the detachment of incomes from the cost of  
17                  housing is certainly a factor that makes it much  
18                  more complex for individual licensees to make  
19                  those kinds of assessments. And licensees and  
20                  managing brokers have often talked about the  
21                  challenge they face because they are really  
22                  receiving deposit funds, the brokerage trust  
23                  accounts in the transaction. The funds that a  
24                  licensee or brokerage will receive are the  
25                  deposit funds aside from commission funds, and

1                   those deposit funds are largely through  
2                   financial institutions. So that's where  
3                   licensees have seen their role as separate from  
4                   the know your client responsibilities of  
5                   financial institutions.

6                   In promoting a culture of compliance, we've  
7                   been seeking to educate licensees that where  
8                   they see red flags, they should consider that as  
9                   part of their suspicious transaction reporting  
10                  obligations. And the federal government,  
11                  FINTRAC, has reinforced that.

12                Q    And so one of the themes that you're picking up  
13                   on here is that some of the indicators of  
14                   suspicion as set out by FINTRAC and other bodies  
15                   are actually commonplace in a market such as  
16                   Vancouver and the Lower Mainland where, as you  
17                   described, the value of property being purchased  
18                   is detached from the individual's income?

19                A    (ES) It can be a factor. For example, you know,  
20                   in and of itself not requiring a mortgage to  
21                   purchase a property may not be a red flag, but  
22                   it's the combination of factors that are  
23                   indicators. You know, multiple sources of  
24                   financial instruments, lots of deposits,  
25                   interest in making deposits less than \$10,000 in

1 multiple phases. You know, those are other  
2 features that I would say are separate from the  
3 characteristics of the local market and  
4 contribute to that assessment around suspicious  
5 transaction reporting.

6 But yes, I think it's been complex for  
7 licensees to understand when to report based on  
8 some of the features here locally.

9 Q And I understand that there's -- as you  
10 described, there is a requirement to monitor the  
11 source of funds for a deposit by way of a  
12 receipt-of-funds record that's kept by the  
13 brokerage but that this requirement does not  
14 extend to the financing of the rest of the  
15 transaction because that financing does not go  
16 through a real estate brokerage; is that right?

17 A (ES) That's correct.

18 Q Wouldn't it be helpful from an anti-money  
19 laundering perspective to require real estate  
20 agents to make an inquiry into source of funds  
21 with respect to the financing of the overall  
22 purchase of real estate?

23 A (ES) I think those inquiries, as I indicated,  
24 are part of the conversations to client  
25 identification and suspicious transaction



1 reporting. I think consideration in adding  
2 those types of requirements, it would certainly  
3 be -- as a reporting entity the federal  
4 government would need to weigh in from a policy  
5 perspective on whether that serves to strengthen  
6 the regime and how that information is collected  
7 and stored and to what purpose it's used would  
8 all need be to important considerations,  
9 especially because the brokerage is the record  
10 keeper, not the licensee.

11 So I think it is addressed through  
12 suspicious transaction reporting verification,  
13 but it's not collected nor required to be  
14 collected at that granular level that it might  
15 be, for example, in a financial institution.

16 Q One of the issues, as you described, is  
17 confusion about when filing a suspicious  
18 transaction report is necessary and as a  
19 corollary when making further inquiries of the  
20 client is necessary because of this sort of grey  
21 area, especially associated with the Vancouver  
22 market. Is it also fair to say that some of the  
23 difficulty there is that there is not a  
24 standardized practice of asking questions about  
25 a client's source of funds such that it's left

1                   up to the individual real estate licensee's  
2                   judgment?

3           A       (ES) I would say that there are additional  
4                   supports and tools that could make the process  
5                   more straightforward, and that's part of the  
6                   work that we've been undertaking in  
7                   collaboration with FINTRAC and with, I would  
8                   say, the BC Real Estate Association -- I know  
9                   you'll hear from them I think later today -- the  
10                  ways that we can simplify the process, the ways  
11                  that we can support templates for the federal  
12                  reporting that would be standardized.

13                         I think the federal government has also  
14                         recognized that through its reviews and audits  
15                         and feedback it's received in that. I think the  
16                         challenge is it's a complex framework of many  
17                         players. We have, you know, financial  
18                         institutions, lawyers, mortgage brokers,  
19                         appraisers, all along that continuum involved  
20                         and each have their own obligations and in many  
21                         cases each are reporting to some degree either  
22                         to their regulator or to the federal government.

23                         So the consideration of how to change it  
24                         needs to be mindful of duplication and overlap  
25                         as well. But I think I appreciate now from just

1           my experience in this role that as regulators we  
2           can't live in silos where we just look at our  
3           specific mandates only, and that came through in  
4           the IAG report that we have to take that broader  
5           approach. So I think that's where we've started  
6           through collaboration to understand what is  
7           possible without getting out of our lane, if you  
8           will. You know, without starting to regulate  
9           what is the federal government's responsibility.

10                   And I think mindful as well that our  
11           capacity is constrained. The volume of  
12           complaints, the risk, every member of the public  
13           who complains believes their complaint to be  
14           serious, and so in terms of delivering public  
15           protection we have to take that as a core  
16           responsibility. So it is a challenge to, I  
17           think, make progress in the bigger areas beyond  
18           our scope and mandate.

19           Q       And in terms of simplifying things for real  
20           estate agents, having a rule that mandates  
21           inquiry into the source of funds for every  
22           transaction beyond just the deposit, that would  
23           reduce some of the grey area, would it not?

24           A       (ES) You know, I would really defer to the  
25           federal government in terms of their

1 requirements. Insofar as it pertains to the  
2 mandate of the role of the Real Estate Council  
3 and future regulators of real estate, it's not  
4 currently part of the mandate in terms of the  
5 duties to clients and what's owed. So I think  
6 there has to be consideration federally as to  
7 the answer to your question. I would say it's  
8 more appropriate to address that probably to  
9 FINTRAC.

10 Q Would there be any issue from the Real Estate  
11 Council's perspective in enforcing such a rule?

12 A (ES) Again, I think this is where the mandate  
13 direction that we've received from government in  
14 collaborating on how to consider supporting the  
15 government's work in anti-money laundering takes  
16 some careful thought to what end would the Real  
17 Estate Council be reviewing that information,  
18 where would any potential misconduct be if a  
19 licensee didn't collect it, how does it relate  
20 to the duties owed to clients, et cetera. So I  
21 think that is a policy consideration that we'd  
22 welcome the opportunity to work on.

23 I think again I'd reference the privacy and  
24 confidentiality considerations of that  
25 recordkeeping. Those needs have to be balanced

1                   with the substantive gain that could be made by  
2                   that information collection.

3                   Q     And what do you see as the scope -- in relation  
4                   to this issue but others more generally, what is  
5                   the scope for Real Estate Council of BC to work  
6                   with FINTRAC and industry to assist real estate  
7                   licensees in meeting their obligations under the  
8                   *Proceeds of Crime (Money Laundering) and*  
9                   *Terrorist Financing Act?*

10                  A     (ES) I can speak to those at a high level, and  
11                   I'll defer as well to Mr. Avren who might be able  
12                   to speak more to the practical application of  
13                   the MOU. I think, as I talked about, we've  
14                   worked closely on collaboration with respect to  
15                   education. We welcome opportunities to consider  
16                   other tools through our audit process. We've  
17                   talked actively about in our brokerage records  
18                   inspection our brokerage audit process. We've  
19                   broadened that to ask about policies. Are  
20                   there ways we can support brokerages with  
21                   FINTRAC's assistance to enable brokerages to  
22                   comply in a more routine and streamlined way.

23                                 I think there are also a lot of learnings  
24                   through the discipline process, as Mr. Avren  
25                   referenced, where we're seeing now referrals,

1                   where we're getting more granular information  
2                   about brokerage compliance. It allows us also  
3                   on the investigation side to take action to  
4                   prevent risk. And I think we are very open to  
5                   other conversations in the future through the  
6                   amalgamation with the BC Financial Services  
7                   Authority of where we can be even more  
8                   collaborative between regulation areas. So  
9                   between mortgage brokers and real estate, for  
10                  example, is an opportunity given our integrated  
11                  approach in the future.

12                Q    Would it be possible for -- or would you have  
13                    the scope to work with FINTRAC pursuant to the  
14                    MOU to create things like a template for a risk  
15                    assessment program or a template for suspicious  
16                    transaction reporting for licensees or better  
17                    indicators of a suspicious transaction? Are  
18                    those the types of things that might be possible  
19                    with the collaboration contemplated by the MOU?

20                A    (DA) I'll jump in here. I think they are. Let  
21                    me just quickly give you an idea where we've  
22                    been at with FINTRAC. There's a certain amount  
23                    of sharing of information. What they  
24                    particularly want from us under that MOU is  
25                    updated lists of brokerages. They'd like to

1                   conduct audits of brokerage compliance systems.  
2                   They particularly are interested in new  
3                   brokerages.

4                   They do -- you probably know this. They do  
5                   about -- I think their stats show about 170, 180  
6                   audits for compliance across the country.  
7                   There's a disproportionate number done in  
8                   British Columbia, something like about 50.  
9                   Disproportionate in terms of national population  
10                  distribution. I think they would like to do  
11                  more. We have had discussions with them about  
12                  assisting and collaborating and supporting their  
13                  audit work, as Ms. Seeley's discussed.

14                  We don't have an express AML mandate and our  
15                  resources wouldn't permit us to undertake that  
16                  at present in any event. So there are two  
17                  issues there. But what we have been talking  
18                  about with FINTRAC is delivering questionnaires  
19                  on their behalf. We do more audits of course of  
20                  brokerages than they do and have more contact  
21                  with brokerages. So we've been talking with  
22                  them about using our direct contact with  
23                  brokerages' email and so on to deliver  
24                  information, and when we do conduct audits to  
25                  deliver questionnaires. It would be difficult

1                   for us in the current scenario to do more than  
2                   that. Firstly, a matter of resourcing and  
3                   actually auditing in respect of AML, and  
4                   secondly, we don't have the depth of expertise  
5                   to deal with the kinds of questions that would  
6                   come back at us about the AML process and  
7                   FINTRAC's requirements since it would be on  
8                   behalf of FINTRAC.

9                   So there would be a gap there. But we  
10                  can -- so at present it's more at the level of  
11                  being sort of a messenger and a bearer of things  
12                  on FINTRAC's behalf than anything else. Just  
13                  to -- that has mostly been postponed until after  
14                  our amalgamation. Both organizations are pretty  
15                  busy, so I think there's an understanding that  
16                  we'll get into that -- those possibilities of  
17                  collaboration more seriously after our  
18                  amalgamation, which will probably be next  
19                  summer.

20                  Q     And do you either of you have any views on what  
21                        could be done to improve compliance in the real  
22                        estate industry in BC with the PCMLTFA  
23                        obligations?

24                  A     (ES) I can start on that. I think the work that  
25                        we've done with respect to education, assessing



1           the impact of that education is important for us  
2           in terms of our collaboration with FINTRAC. Are  
3           we -- as the messenger, as Mr. Avren pointed  
4           out, are we conveying appropriately the types of  
5           tools to identify red flags, to ensure  
6           compliance; are we seeing -- I wouldn't measure  
7           more suspicious transaction reports as a measure  
8           of success, but are we seeing an increased  
9           awareness of the role that licensees play in  
10          complying federally.

11                   I think there is a challenge with the  
12           culture in two ways. One historically was the  
13           myth that licensees don't -- and brokerages  
14           don't handle cash and therefore they are not at  
15           risk as much in the money laundering space. I  
16           think that myth has been dispelled and I would  
17           argue a lot of that has been through the  
18           education both at the sector level, the industry  
19           association and the regulator.

20                   I think the other challenge is the concern  
21           that licensees have about the confidentiality  
22           they owe their client and the trust that their  
23           client places in them and some perception that  
24           they are betraying that trust by filing a  
25           suspicious transaction report. I think that's

1           also a myth that it being debunked. I think  
2           it's part of both ethics and AML practice,  
3           training and guidance that positions the real  
4           estate profession at the level of a professional  
5           and continues to ensure that first and foremost  
6           the duties and obligations, the ethical duties  
7           owing are at the forefront.

8                        I think that supports strength not only in  
9           compliance with the regulatory regime here in  
10          BC but federally. That idea that you're not a  
11          friend of your client that I think other  
12          professions have managed to distinguish in their  
13          own professional practice perhaps better than  
14          we've seen in the licensee population. So I use  
15          those examples because there's more work to be  
16          done there. I think the incentives of the  
17          commission sales environment do create  
18          challenges that continue to emerge and there are  
19          different levels of practice sophistication.

20                       I think the other comment I would make is  
21          just the need to make sure that the -- any  
22          forthcoming policy work or authorities isn't  
23          overlapping or duplicative. I think there is  
24          already a very complex web of regulatory  
25          requirements and simplifying wherever we can,

1                   working in plain language as we do helps with  
2                   compliance. It needs to be accessible and it  
3                   needs to be understood by the public.

4                   The other point that I would make is I think  
5                   this -- I think we've succeeded in working to  
6                   make this part of routine practice for  
7                   licensees. The other perception has been well,  
8                   that's a Vancouver problem. You know, if I'm a  
9                   rural licensee, I don't need to deal with these  
10                  kinds of client identification questions or  
11                  suspicious transaction reporting. And I think  
12                  both the 2019 reports, the German and Maloney  
13                  reports, have helped to bring into the public  
14                  domain the awareness a consumer has as well to  
15                  expect those kinds of questions so that it is  
16                  part of the systemic protections that we as  
17                  British Columbians want to have to prevent the  
18                  predicate crimes and the money laundering.

19                  But certainly more work to do. I think  
20                  there's lots of support as well for managing  
21                  brokers that we want to continue to provide. As  
22                  we discussed, the managing broker is the  
23                  supervisor, the compliance officer, if you will,  
24                  of the regime. They may well also be the  
25                  anti-money laundering compliance officer for

1           FINTRAC reporting and I think that role is  
2           critical in the current licensing structure to  
3           ensure there is appropriate training and  
4           supports, and that's where we've welcomed the  
5           superintendent's recommendations to strengthen.

6                        So lots of work to do. I think a lot of  
7           progress and really welcoming what further  
8           guidance may come from both the commission and  
9           government on future mandate direction.

10           Q       With respect to specifically to managing  
11           brokers, from the work that you do in audit and  
12           complaints and investigations, do you have any  
13           insights into how effectiveness might change  
14           if -- I'm not wording that correctly at all.

15                       How -- I'm wondering if the responsibility  
16           for filing suspicious transaction reports were  
17           transferred from a managing broker to a real  
18           estate agent, do you have any insights into what  
19           impact this might have on compliance with  
20           PCMLTFA obligations?

21           A       (ES) Thank you. It's an interesting question  
22           and I know that was a recommendation from the  
23           Maloney report and I think insofar as the  
24           current regulatory framework continues, the  
25           managing broker as the supervisor of brokerage

1           operations, the trust accounts and the overall  
2           conduct, it makes sense to have brokerages  
3           continue to manage that recordkeeping. There  
4           isn't a structure where licensees have their own  
5           individual records separate, and I would argue  
6           there would need to be auditability of that by  
7           the regulator.

8                     If licensees were to start to collect  
9           records and submit them, we would want to ensure  
10          that that record collection is consistent with  
11          the overall requirements of brokerage  
12          operations. So I think -- as I said, I think  
13          that needs further policy consideration. It is  
14          also identified as a recommendation in the  
15          superintendent's report to look at whether the  
16          model of the managing broker at the centre of  
17          that compliance is the right model still.

18                    I think that the advent of teams, as we've  
19          discussed, larger groups of licensees working  
20          together, the virtual world, the virtual ease  
21          now with which records can be kept, does that  
22          necessitate a different model? Would it serve  
23          the public better? Would it protect the public?  
24          Those are all consideration that we would need  
25          to look at. Right now the structure of a

1                   brokerage is set up such that it is most  
2                   efficient for it to be the centre of the  
3                   reporting just for the reasons I mentioned. But  
4                   I think it does not preclude us from continuing  
5                   to focus on licensee duties and their role that  
6                   they play with their client in that  
7                   identification, in the red flags and in the  
8                   practical role that they play, not only to  
9                   report but we provide practice guidance that  
10                  says licensees should walk away from clients  
11                  when they feel uncomfortable. This is about  
12                  their ethical role, not just making a deal  
13                  happen but protecting the public and ensuring  
14                  that funds that are suspicious are not entering  
15                  the BC economy.

16                                So I think there's more there. I think,  
17                                though, as I said, you know, the policy  
18                                considerations of the -- what that would do in  
19                                terms of our oversight of the regime and  
20                                ultimately would it benefit the federal  
21                                reporting structure have to be considered.

22                   Q    I understand you mentioned that one of your  
23                   investigations had been forwarded on to or you  
24                   had alerted FINTRAC of the existence of that  
25                   investigation, the Wen matter. Has the reverse

1                   happened? Have you instigated any  
2                   investigations due to information that you had  
3                   received from FINTRAC?

4           A       (DA) Yes. And there's one underway now. It's  
5                   one of those six. FINTRAC keeps us apprised of  
6                   imminent administrative penalties that they  
7                   impose and penalties that have been imposed,  
8                   they alerted us to one of those just a few weeks  
9                   ago and it's now under investigation. We'll see  
10                  where it goes. Wouldn't surprise me in the  
11                  circumstances if it led to disciplinary action  
12                  in respect to the brokerage.

13           MS. ROSE: I have one further document to display,  
14                  Madam Registrar. This is CAN-001319.

15           Q       And as she does that I'll just ask, I think  
16                   Mr. Avren, what information from FINTRAC would  
17                   be helpful to the Real Estate Council of BC?  
18                   I'm not sure if this is a question for  
19                   Ms. Seeley or Mr. Avren.

20           A       (DA) Well, they're giving us -- right now what  
21                   they give us is -- as I've said, they do about  
22                   50 brokerage audits per year in BC. That's  
23                   going from recent stats of theirs. And they  
24                   send us copies of their -- of the audit findings  
25                   and communications with the brokerages and we

1 review those. Particularly they're of interest  
2 to our audit group. And in respect of  
3 administrative penalties they -- as I've said,  
4 they keep us apprised of ones that are in the  
5 pipeline and ones that have occurred and those  
6 feed very well into our disciplinary system as  
7 well.

8 So they give administrative penalties a  
9 significant degree of thought. The penalties  
10 can be significant. And so when they have  
11 imposed something it's pretty meaningful, I  
12 think, in terms of our disciplinary response as  
13 well.

14 So I think we are getting what would be most  
15 helpful to us. I'm not aware that we're missing  
16 anything there. I think what we're get is good.  
17 The audit findings and the administrative  
18 penalties.

19 Q And the document that we have on the screen is  
20 another example of some information that you  
21 receive from FINTRAC. This is a presentation  
22 from FINTRAC to RECBC; is that right?

23 A (DA) Yes.

24 MS. ROSE: And without having to go through every  
25 slide, I think I'll just -- sorry, just one



1 moment.

2 I think I'll just ask that this be entered  
3 as the next exhibit Mr. Commissioner.

4 THE WITNESS: (DA) I think that was a slide  
5 presentation they gave to one of our all-staff  
6 meetings, and I believe we had representatives  
7 of the superintendent of real estate there also.

8 THE COMMISSIONER: That will be exhibit 620, then.

9 THE REGISTRAR: Yes, exhibit 620.

10 **EXHIBIT 620: FINTRAC Overview - slide**  
11 **presentation to RECBC - May 2019**

12 MS. ROSE: And I don't need that on the screen  
13 anymore, Madam Registrar. Thank you.

14 Q The final question for both of you. What other  
15 anti-money laundering measures has the Real  
16 Estate Council of BC been working on or been  
17 developing in the past couple of years that we  
18 haven't touched on today?

19 A (ES) I don't know that there -- I think we've  
20 touched on most of what we've been working on.  
21 I would say the next wave, though, of focus is  
22 really that managing broker support and I think  
23 that can -- it would span the regulatory  
24 requirements under the *Real Estate Services Act*  
25 but also that possibility to do more in terms of

1 training with FINTRAC and working more closely  
2 together. I think both our organizations are  
3 constrained by resources, and the opportunity  
4 frankly that COVID brings of a more virtual  
5 environment does create the chance to do more  
6 virtually.

7 And I would hope that in partnership with  
8 the sector and the BC Real Estate Association,  
9 the real estate boards who play a critical role.  
10 They are, I think, seen as member associations.  
11 They are seen in important light by their  
12 members. They can also play a critical role.  
13 And so I would like to see more collaboration  
14 with those stakeholders in continuing to keep  
15 the focus on this message.

16 I think we've been pleased to have  
17 collaboration to date and as requirements  
18 change -- and there will be new guidance from  
19 the Real Estate Council of BC. I guess that's  
20 another area that we didn't touch on, but new  
21 guidance with respect to land ownership  
22 transparency registry and as that relates also  
23 to suspicious transaction reporting, client  
24 identification and new FINTRAC requirements,  
25 we'll continue to be updating and adding to the

1 practice guidance and the tools.

2 And, you know, keeping on top of the  
3 evolution of the policy work that will come I  
4 think is important. And it's exciting in the  
5 opportunity to be integrated with the BC  
6 Financial Services Authority for the reasons I  
7 mentioned. The chance to work on this across  
8 the spectrum of the real estate sector is, I  
9 think, something that will greatly benefit  
10 consumers. It gives them one point of  
11 information.

12 And as I mentioned earlier consumers are  
13 also an important piece of this. That consumer  
14 awareness becomes critical in overall  
15 compliance. So I think we've done a lot but  
16 there's certainly more that I look forward to.

17 And, you know, I'm sure Mr. Avren can speak  
18 to -- I think there's -- it's only just  
19 beginning how we can work together on the  
20 discipline side with respect to understanding  
21 where investigations are concluded at FINTRAC  
22 that we can then gain information that enables  
23 us to be more proactive on our investigation  
24 side is something I hope we can continue to do  
25 in the future.



1                    simply legislative fixes to that to ensure the  
2                    possibility of sharing information across an  
3                    organization in the face of the *FOI Act* and its  
4                    privacy restrictions.

5                    MS. ROSE: Mr. Commissioner, those are all my  
6                    question for these witnesses. With the  
7                    indulgence of the witnesses, I might suggest  
8                    that we move on to cross and attempt to take our  
9                    15-minute break after the cross-examination of  
10                   these witnesses and before the next panel  
11                   begins.

12                   THE COMMISSIONER: All right. If both Ms. Seeley and  
13                   Mr. Avren are content to carry on, we'll do  
14                   that. I think we have about -- maybe about  
15                   40 minutes of cross-examination.

16                   THE WITNESS: (DA) Absolutely.

17                   THE WITNESS: (ES) Yes.

18                   THE COMMISSIONER: All right. Thank you. I'll call,  
19                   then, on Ms. Harlingten for the province, who  
20                   has been allocated 15 minutes.

21                   MS. HARLINGTEN: Thank you, Mr. Commissioner.

22                   **EXAMINATION BY MS. HARLINGTEN:**

23                   Q    Ms. Seeley and Mr. Avren, can you hear me all  
24                   right?

25                   A    (DA) Very well, thank you.

1 (ES) Yes.

2 Q Thank you very much. I only have a few followup  
3 questions from the discussion that you just had  
4 about the potential benefits of the  
5 amalgamation. And if I understand your evidence  
6 correctly, part of that amalgamation is the  
7 ability to have access to more data  
8 systemically. And I'm not sure if this is a  
9 best question for you, Ms. Seeley or Mr. Avren,  
10 but at the moment are there any gaps in your  
11 visibility or the data that you're collecting  
12 that would benefit you as a regulator?

13 A (ES) Maybe I'll speak at a higher level and to  
14 Mr. Avren's point, there are certainly  
15 considerations with respect to the regulatory  
16 statutes and privacy collection and use of  
17 information within those. I think more broadly  
18 the challenge that we face is the work to be  
19 proactive. The regulatory regime is set up as a  
20 very rules-based, compliance and frankly a  
21 reactionary regime. It enables the regulator to  
22 be proactive through its own investigations/  
23 initiatives, but with the practical realities of  
24 hundreds if not thousands of complaints, our  
25 focus is really on the service to the public of

1                   addressing those complaints efficiently and  
2                   effectively.

3                   What I hope we can achieve through  
4                   integration that proactive risk-based approach  
5                   that we're already seeing in some of the  
6                   frameworks where we are identifying data that is  
7                   related to the market activity in a more  
8                   detailed way, in a more predictive modelling  
9                   way. Where will we see risk emerge, for  
10                  example, if interest rates change, if -- impacts  
11                  on mortgage rules that have a direct tie to the  
12                  residential market. Where will we see changes  
13                  in strata and rental. It's an area that -- with  
14                  the growth of the housing supply, and the strata  
15                  areas needs attention.

16                  So I think we need to take the opportunity  
17                  as we're planning to do with the modernization  
18                  of our systems to integrate that market data  
19                  more. A lot of that data also resides within  
20                  the private member listing service, the Multiple  
21                  Listing Service, which the data that the real  
22                  estate boards -- the ten real estate boards in  
23                  BC use. And it being fragmented and not held in  
24                  a public domain necessarily is also a  
25                  limitation. So I think we don't want to go on

1 fishing expeditions, but we do want to be able  
2 to use data to identify risk in that proactive  
3 light.

4 And I think the opportunity now with BCFSA  
5 is to build in -- should we have the statutory  
6 allowances to build in models that can draw on  
7 financial institutions, insurance, pension,  
8 credit -- mortgage brokers as well as real  
9 estate professionals. Making it unique really  
10 in our ability to innovate too in these models  
11 and not spend so much time on risk that perhaps  
12 has already happened but the risk that is out  
13 there that we haven't been looking at yet. So  
14 that is part of, as a regulator, what always  
15 keeps you awake at night, I think.

16 Q Mr. Avren, did you have anything to add to that?

17 A (DA) No. No, I think that was -- Ms. Seeley has  
18 captured it very well.

19 Q Ms. Seeley, I just would follow up from that.  
20 In the sense of gathering the data that you've  
21 just eloquently described, are there particular  
22 sources of data other than the real estate  
23 boards which I understand you don't have access  
24 to that would be helpful for you?

25 A (ES) I think we've had discussions with the Land



1 Title Survey Authority on not so much the access  
2 but, again, how easy is it and how much can we  
3 map the data across the journey of the real  
4 estate transaction and look at where we could  
5 collaborate more in automating some of that, in  
6 filtering it. It's a vast amount of  
7 information, so I'm not so sure that it's so  
8 much limitation as looking at the question of  
9 what problem are we trying to solve and drilling  
10 down into what data would help us address those  
11 problems.

12 I think data analytics is a really  
13 interesting part of the work ahead and many  
14 regulators are grappling with this same question  
15 of how to set up models to be predictive. So to  
16 my knowledge there isn't necessarily information  
17 that we can't have. It's just how to get it in  
18 the right way to give us what we need in an  
19 efficient model that is the opportunity.

20 MS. HARLINGTEN: Thank you, Ms. Seeley.

21 Mr. Commissioner, those are all my  
22 questions.

23 THE COMMISSIONER: Thank you, Ms. Harlingten. I'll  
24 now call on Mr. Usher on behalf of the Society  
25 of Notaries Public of British Columbia, who's

1                   been allocated 10 minutes.

2                   MR. USHER: Thank you, Mr. Commissioner.

3                   **EXAMINATION BY MR. USHER:**

4                   Q     These questions could be perhaps for Mr. Avren  
5                   or Mr. Seeley. I just wondering if you could  
6                   tell us a bit about your relationship to police  
7                   agencies. I think there's -- the act, the  
8                   *FOIPPA, Freedom of Information and Protection of*  
9                   *Privacy Act*, does allow the sharing of  
10                  information. I wonder if you could tell us a  
11                  bit about your relationship with the police in  
12                  terms of referrals for criminal charges, for  
13                  example, relating out of fraud and forgery or  
14                  use of forged documents or things where you've  
15                  actually sent or where they've inquired. Just a  
16                  general response to that would be appreciated.

17                  A     (DA) Mr. Scott, who is our director of  
18                  compliance that I think you'll be hearing from  
19                  next week, is a former police officer. He has  
20                  significant personal contacts with members of  
21                  law enforcement in Canada, both local VPD and  
22                  here in Vancouver as well as RCMP, so that is  
23                  just a contact for things.

24                                 Apart from that there's no sort of  
25                                 established channel of communications and as I

1 think you probably know, the privacy  
2 restrictions, the personal information  
3 restrictions and *Freedom of Information and*  
4 *Protection of Privacy Act* are significant. So  
5 you are limited in your disclosure of  
6 information, which has not already been made  
7 public. Principally where there is a risk to  
8 health and safety of the public, you can't --  
9 and I've been through this in other contexts and  
10 particularly at BC Hydro in relation to grow  
11 operations. There you are able to provide  
12 information in respect of a specific  
13 investigation.

14 So if the RCMP, for example, were to come to  
15 us and say we're interested in information  
16 respecting, you know, Mr. X; what do you have,  
17 we could then potentially respond and release  
18 personal information. But to volunteer it  
19 outside the realm of, you know, a public risk of  
20 the kind I described is probably counter to the  
21 restrictions on privacy in the *Freedom of*  
22 *Information Act*.

23 So we do go to the RCMP and agencies but  
24 often it will be after the conclusion of our own  
25 work and there may have been a consent order and

1                   so on just to alert them to the situation. I'll  
2                   leave it at that. I mean, I have other  
3                   experience in respect of police and fraud  
4                   referrals and other response and so on, but ...

5           Q       So would you agree, though, that under the act,  
6                   the *FOIPPA* as it's referred to, the Real Estate  
7                   Council is a public body and is what's called a  
8                   law enforcement agency for the purposes of that  
9                   statute?

10          A       (DA) Yes. Yeah.

11          Q       Okay. And that statute then specifically allows  
12                   to you share information with other law  
13                   enforcement agencies?

14          A       (DA) To some extent, yeah.

15          MR. USHER: That's all my questions. Thank you.

16          THE WITNESS: Thank you.

17          THE COMMISSIONER: Thank you, Mr. Usher.

18                   Now, Mr. Rauch-Davis on behalf of  
19                   Transparency International Coalition, who has  
20                   been allocated 15 minutes.

21          MR. RAUCH-DAVIS: Thank you, Mr. Commissioner.

22                   **EXAMINATION BY MR. RAUCH-DAVIS:**

23          Q       Ms. Seeley, my questions will largely be  
24                   directed at you. But, Mr. Avren, if you feel  
25                   that you can add, please by all means feel free.

1                   So under the -- or, Ms. Seeley, part of your  
2                   evidence yesterday was that the AML courses  
3                   offered to real estate professionals in  
4                   British Columbia through the organization cover  
5                   topics under FINTRAC requirements; right?

6                   A     (ES) That's correct, yes.

7                   Q     Yeah. And I believe your evidence was that this  
8                   was in response to reports of non-compliance  
9                   from FINTRAC, or -- do I have that right?

10                  A     (ES) It was a combination. We initiated  
11                  discussions on the memorandum of understanding  
12                  with FINTRAC I believe back in 2017, and even  
13                  going back further because the real estate  
14                  professional as a reporting entity has been in  
15                  place for a long time. So I think it was a  
16                  product both of understanding FINTRAC's concerns  
17                  with respect to compliance. Sharing the audit  
18                  feedback as well as the awareness in the public  
19                  domain of the scourge of money laundering and  
20                  the role that a real estate agent plays  
21                  individually not just with the brokerage.

22                  So as I distinguished yesterday, one of the  
23                  features of this training course that is  
24                  mandatory is that every licensee, whether it be  
25                  strata, rental, trading services, has to take

1                   the course and understand individually the  
2                   obligations that they have as opposed to the  
3                   compliance of the brokerage in its recordkeeping  
4                   and reporting which is offered more by the  
5                   sector and industry association.

6           Q       Right. And needless to say you have to stay  
7                   abreast of FINTRAC's requirement as they kind of  
8                   shift through time and update your education  
9                   materials on an as-needed basis as those  
10                  requirements change?

11          A       (ES) That's correct.

12          Q       Yeah. And so under the *PCMLTFA* my friend  
13                   earlier this morning covered in brief about real  
14                   estate professionals and the know-your-client  
15                   obligations. You are aware of those? I see you  
16                   nodding your head.

17          A       (ES) Yes.

18          Q       Yeah. And aren't those obligations changing  
19                   this summer, in June 2021?

20          A       (ES) They are. I'm not familiar with the  
21                   precise details of those changes, but one of the  
22                   benefits of our memorandum of understanding is  
23                   we've been working on the practice guidance with  
24                   FINTRAC for a number of months now. We've also  
25                   engaged the sector for feedback as we bring

1 forward not only an awareness of the new federal  
2 requirements coming into force in June but also  
3 reporting requirements under the Land Ownership  
4 Transparency Registry and guidance with respect  
5 to that.

6 Q Right. And so you are not very familiar -- let  
7 me ask you this: are you aware that the changes  
8 coming to the *PCMLTFA* will require real estate  
9 professionals to obtain beneficial ownership  
10 information on their corporate clients?

11 A (ES) Yes.

12 Q Yeah. And on top of just obtaining that  
13 information they're actually going to have to  
14 take steps to verify the accuracy of that  
15 information.

16 A (ES) Yes.

17 Q Yeah. And so the commission has heard some  
18 evidence on the potential impacts of a corporate  
19 beneficial ownership registry. And so my  
20 question to you is in your view wouldn't a  
21 publicly accessible corporate beneficial  
22 ownership registry go a long way for real estate  
23 professionals to be able to meet their new  
24 *PCMLTFA* obligations?

25 A (ES) It's precisely why we're working on this

1                   guidance, yes. We see that the Land Ownership  
2                   Transparency Registry will be a critical tool  
3                   for licensee to use in their access. Now, they  
4                   will have access to the public search function.  
5                   So that is I think a limitation in the depth of  
6                   data that may be available to them, but  
7                   nevertheless what our guidance -- what we're  
8                   working toward -- and we haven't published that  
9                   guidance yet so it's still in draft form and it  
10                  may change, but it's promoting that culture of  
11                  compliance to use the Land Ownership  
12                  Transparency Registry as a part of every  
13                  practice with every client so that there is a  
14                  routine ability to check against it. And where  
15                  it may raise questions, it promotes that  
16                  conversation and that reporting and  
17                  recordkeeping around information perhaps that  
18                  can't be verified and may lead to a suspicious  
19                  transaction report.

20                         So the guidance in its preliminary stages is  
21                         recommending that if underlying ownership or  
22                         personal information doesn't align with what the  
23                         client has provided, and it can't be reasonably  
24                         explained, then the licensee has to be A,  
25                         working with their managing broker on next



1 steps, considering suspicious transaction  
2 reporting or as I mentioned as well even  
3 terminating the client relationship if the  
4 licensee has concerns.

5 Q And I appreciate the LOTA registry, that is  
6 coming into being, I believe, in the next couple  
7 of months here. But to meet your -- for  
8 licensees to meet their *PCMLTFA* obligations,  
9 they're going to have to be assured that the  
10 information being uploaded to that type of  
11 registry is accurate and verified; right?

12 A (ES) We in our guidance are providing the  
13 information to encourage its use with the  
14 understanding that from the public search  
15 function there may be a need to circle back and  
16 triangulate that, if you will, with client  
17 conversations.

18 So, you know, the verification of that  
19 information is the responsibility of the  
20 regulator in terms of its role and especially  
21 initially, BC being the first to have such a  
22 registry, it's an important tool but it's not  
23 the only tool and that's where we're working to  
24 update our guidance generally around the -- I  
25 think it's June 2021 changes coming so that

1                   licensees feel prepared to use other tools, if  
2                   they may need to, to verify and to engage in the  
3                   conversations early with their clients in the  
4                   case of any red flags.

5                   Q    Are you aware that the LOTA registry doesn't  
6                   have a proactive ID verification provision?

7                   A    (ES) I am not an expert in the specifics of the  
8                   registry, so I don't want to make a misstatement  
9                   there.

10                  Q    Right. I appreciate that. But I take it you'd  
11                  agree with me that if poor data quality is going  
12                  into the registry, then all that would come out  
13                  is poor data quality and then it's less reliable  
14                  for your licensees.

15                  A    (ES) I don't want to speculate on the  
16                  reliability of it. I think the important  
17                  element for licensees' purposes is that it is a  
18                  new tool that wasn't previously available. You  
19                  know, I think I would defer questions about the  
20                  obligations and the verification to the  
21                  authorities who have charge of that tool. I  
22                  think we're very much interested as well in how  
23                  to streamline the process for licensees who may  
24                  have a number of steps in their due diligence  
25                  that they have to carry out if it's a

1                    complicated transaction with corporate or trust  
2                    ownership. The other element of education here  
3                    is licensees aren't experts in complex ownership  
4                    structures, so I think there's a lot of work to  
5                    do still to provide what is reasonable guidance  
6                    but also expect licensees to work within the  
7                    realm of their expertise in this area too.

8                    MR. RAUCH-DAVIS: Thank you. Those are all my  
9                    questions.

10                    THE COMMISSIONER: Thank you, Mr. Rauch-Davis.  
11                                       Anything arising, Mr. Usher.

12                    MR. USHER: Not at this time, Mr. Commissioner.  
13                                       Thank you.

14                    THE COMMISSIONER: Thank you. Ms. Harlingten?

15                    MS. HARLINGTEN: No, Mr. Commissioner. Thank you.

16                    THE COMMISSIONER: Thank you. Ms. Rose?

17                    MS. ROSE: Nothing arising, Mr. Commissioner.

18                    THE COMMISSIONER: Thank you very much, Ms. Seeley  
19                    and Mr. Avren. I'm very appreciative of the  
20                    time you've taken with us to acquaint us with  
21                    the work that you are both doing through the  
22                    Real Estate Council of BC and providing us with  
23                    such thoughtful and comprehensive insights into  
24                    its workings.

25                                       So you are now excused from further

1 evidence. Thank you.

2 THE WITNESS: (DA) Thank you, Mr. Commissioner.

3 (ES) Thank you.

4 (DA) And thank you, counsel.

5 THE COMMISSIONER: We will adjourn now for

6 15 minutes, Ms. Rose.

7 THE REGISTRAR: This hearing is adjourned for a

8 15-minute recess until 11:17 a.m. Please mute

9 your mic and turn off your video.

10 **(WITNESSES EXCUSED)**

11 **(PROCEEDINGS ADJOURNED AT 11:03 A.M.)**

12 **(PROCEEDINGS RECONVENED AT 11:17 A.M.)**

13 THE REGISTRAR: Thank you for waiting. The hearing

14 is now resumed. Mr. Commissioner.

15 THE COMMISSIONER: Yes. Thank you, Madam Registrar.

16 Yes, Ms. Rose.

17 MS. ROSE: Mr. Commissioner, I will be examining two

18 witnesses from the BC Real Estate Association

19 today. And we have Ms. Darlene Hyde and

20 Mr. Brendon Ogmundson with us today.

21 Madam Registrar, I turn the floor over to

22 you to swear in these witnesses.

23 THE REGISTRAR: Would each of you please state your

24 full name and spell your first name and last

25 name for the record. I'll start with Ms. Hyde.

1 THE WITNESS: (DH) Darlene Hyde, D-a-r-l-e-n-e  
2 H-y-d-e.

3 THE REGISTRAR: Thank you. And Mr. Ogmundson.

4 THE WITNESS: (BO) Brendon Ogmundson, B-r-e-n-d-o-n  
5 O-g-m-u-n-d-s-o-n.

6 **DARLENE HYDE, a witness**  
7 **called for the commission,**  
8 **affirmed.**

9 **BRENDON OGMUNDSON, a**  
10 **witness called for the**  
11 **commission, affirmed.**

12 THE REGISTRAR: Thank you. Ms. Rose.

13 MS. ROSE: Thank you, Madam Registrar. Madam  
14 Registrar, would you please pull up Ms. Hyde's  
15 CV.

16 **EXAMINATION BY MS. ROSE:**

17 Q Ms. Hyde, do you recognize this document as your  
18 CV?

19 A (DH) I do.

20 Q Ms. Hyde, you were appointed as the Chief  
21 Executive Officer of the BC Real Estate  
22 Association effective January 22nd, 2018?

23 A (DH) That's correct.

24 Q And the BC Real Estate Association, or BCREA as  
25 it is colloquially known, is the professional

1 association for more than 23,000 realtors or  
2 real estate agents in BC?

3 A (DH) That is correct.

4 Q And prior to your role at BCREA you spent  
5 eight years as executive director of the  
6 Commercial Real Estate Development Association  
7 of Metro Vancouver?

8 A (DH) That's correct.

9 Q And you also have served as The Executive Vice  
10 President of the New Car Dealers Association of  
11 BC?

12 A (DH) Yes.

13 Q And in that role you were part of a team that  
14 worked with the provincial government to  
15 introduce a new regulatory framework?

16 A (DH) That's correct.

17 Q And prior to those roles you held senior  
18 positions in the energy, insurance, automotive,  
19 retail and telecommunications sectors across  
20 Canada?

21 A (DH) Yes.

22 Q And you served as a chair on boards of the Motor  
23 Vehicle Sales Authority and the Westminster  
24 Savings Credit Union?

25 A (DH) I did.

1 Q And you are presently the chair of the Insurance  
2 Council of BC?

3 A (DH) I am.

4 Q And just to be -- so we can be clear, you are  
5 not currently a real estate agent?

6 A (DH) I am not.

7 Q And you have never practised as a real estate  
8 agent?

9 A (DH) I've never practised as a real estate  
10 agent.

11 MS. ROSE: Okay. Mr. Commissioner, I would ask that  
12 Ms. Hyde's CV be entered as exhibit 621, I  
13 believe.

14 THE COMMISSIONER: Yes, very well. 621.

15 THE REGISTRAR: Exhibit 621.

16 **EXHIBIT 621: Curriculum Vitae of Darlene Hyde**

17 MS. ROSE: Thank you. We can take this one down.

18 And, Madam Registrar, if we could have

19 Mr. Ogmundson's CV up, please.

20 Q Mr. Ogmundson, is this your CV?

21 A (BO) It is.

22 Q And you are currently the Chief Economist for  
23 the BCREA?

24 A (BO) I am.

25 Q And you were appointed to that role on

- 1                   October 1st, 2019?
- 2           A       (BO) That's right.
- 3           Q       And prior to that role you served as the Deputy  
4                   Chief Economist for BCREA?
- 5           A       (BO) Yes.
- 6           Q       Your specialty is in macroeconomic forecasting  
7                   and housing market analysis?
- 8           A       (BO) That's right.
- 9           Q       And in your current role you are responsible for  
10                  communicating trends and producing forecasts for  
11                  the BC Housing market?
- 12          A       (BO) Correct.
- 13          Q       And for forecasting the BC, Canadian and US  
14                  economy?
- 15          A       (BO) That's right.
- 16          Q       And you are a member of the BC Ministry of  
17                  Finance Economic Forecast Council?
- 18          A       (BO) I am.
- 19          Q       And the role of that council is to provide  
20                  independent forecasts and advice to inform the  
21                  provincial budget?
- 22          A       (BO) That's right.
- 23          Q       You are also a contributor to the Philadelphia  
24                  Federal Reserve's Survey of Professional  
25                  Forecasters?



1 A (BO) That's true.

2 Q And you obtained a masters degree in economics  
3 from Simon Fraser University in 2006?

4 A (BO) M'mm-hmm. Yeah.

5 Q And a CFA certification in 2009?

6 A (BO) That's right.

7 MS. ROSE: Okay. Mr. Commissioner, I would ask that  
8 Mr. Ogmundson's CV be entered as exhibit 622.

9 THE COMMISSIONER: Very well. 622.

10 THE REGISTRAR: Exhibit 622.

11 **EXHIBIT 622: Curriculum Vitae of Brendon**  
12 **Ogmundson**

13 MS. ROSE: Thank you. And, Madam Registrar, I have  
14 no further need of this document. Thank you.

15 So, Mr. Commissioner, I would propose to ask  
16 a series of questions to Ms. Hyde and following  
17 that a series of questions to Mr. Ogmundson. So  
18 I'll begin with questions primarily directed at  
19 Ms. Hyde. I don't expect that there will be  
20 much overlap in those questions and these  
21 witness's expertise.

22 Q So, Ms. Hyde, could you just tell us what the  
23 BCREA is and just briefly what it does.

24 A (DH) I'm happy to. The BCREA is the voice of  
25 the BC realtors representing approximately

1                   23,000 realtors. We also work with 10 member  
2                   boards across British Columbia. In that  
3                   constituency there are about 1,300 managing  
4                   brokers. We have four core services, those  
5                   being advocacy to government, the public and key  
6                   stakeholders, education for realtors and  
7                   managing brokers, economics basically for  
8                   realtors, member boards, government and the  
9                   public, and standard forms which form the  
10                  backbone of a real estate transaction.

11                   We also work with the Canadian Real Estate  
12                  Association which represents about 130,000  
13                  realtors across Canada.

14                   In terms of the economic impact that we  
15                  have, we represent about 10 percent of BC's GDP,  
16                  the building, buying and selling of homes. Tens  
17                  of thousands of people employed plus knock-on  
18                  effects from renos -- renovations, furnishings  
19                  and professional services. There were almost  
20                  100,000 transactions in 2020 for a total value  
21                  of 70 billion and significant contributions to  
22                  municipal and provincial taxes, including about  
23                  1.5 billion annually in the property transfer  
24                  tax.

25                   The sector is doing well even despite the

1                   pandemic, and so in this time we are making a  
2                   contribution to the province in this way.

3                   Ms. Rose and Mr. Commissioner, I wanted to  
4                   tell you briefly why we are here today, if  
5                   that's okay. We sought standing as a friend of  
6                   the commission and we welcome the transparency  
7                   that is expected of us here. We look forward to  
8                   telling the commission what we have done and  
9                   continue to do on the anti-money laundering  
10                  front.

11                  We are certainly concerned about the adverse  
12                  impacts and the social harms inflicted by this  
13                  money laundering blight, the drug trafficking  
14                  and other predicate crimes. We are also  
15                  concerned however about the potential  
16                  reputational damage to our sector as a result of  
17                  estimates of money laundering associated with  
18                  real estate which have not been qualified.  
19                  There are some press reports of errant realtors,  
20                  but we have no visibility into realtor criminal  
21                  activity on this front. And so this goes to the  
22                  trust -- the issue of trust in our sector. The  
23                  realtor is a trusted advisor to his or her  
24                  client. All transactions are based on trust and  
25                  they tend -- realtors tend to be the heart of

1                   their community.

2                   So we want to say that whatever the quantum  
3                   of money laundering in real estate, be it  
4                   100,000, 10 million or 5 billion, it has no  
5                   place in our sector. We've taken proactive  
6                   initiatives around education and other  
7                   initiatives to deal with this. We've used our  
8                   own money and we've taken leadership on this  
9                   alone and in collaboration with others. We want  
10                  to --

11                 Q     I think --

12                 A     (DH) -- be part of the solution and not the  
13                  problem, and that's it. Thank you.

14                 Q     Okay. Wonderful. Thank you, Ms. Hyde. I  
15                  wonder, Ms. Hyde -- I noticed that you're  
16                  just -- it appears that you are referring to  
17                  some notes. I wonder if you could just --

18                 A     (DH) Yes, I am.

19                 Q     Thank you. I wonder if you could just tell the  
20                  Commissioner what those are.

21                 A     (DH) These are my notes for possible subjects  
22                  that might come up today, and I'm happy to share  
23                  them with the commission.

24                 MS. ROSE: Okay. Mr. Commissioner, I don't see any  
25                  issue with Ms. Hyde referring to her notes in

1                   order to assist her in her testimony today, but  
2                   I put that over to you in case you have any  
3                   concerns about that.

4           THE COMMISSIONER: Well, no. As long as the notes  
5                   are available to be produced, I think that's  
6                   fine.

7           THE WITNESS: (DH) Totally.

8           MS. ROSE: And I suppose I would invite any  
9                   participants who have an interest in seeing  
10                  those notes to contact counsel. We can deal  
11                  with it that way.

12          Q    Ms. Hyde, there are a number of member boards to  
13                  the BCREA; is that right?

14          A    (DH) There are ten.

15          Q    Could you just tell us what those are.

16          A    (DH) Okay. Do you want me to list all ten?

17          Q    If you wouldn't mind. Thank you.

18          A    (DH) Okay. Well, there's the Real Estate Board  
19                  of Greater Vancouver. There's the Fraser Valley  
20                  Real Estate Board. There is the Victoria Real  
21                  Estate Board. There is the Vancouver Island  
22                  Real Estate Board. There is the Powell River  
23                  Real Estate Board, the Chilliwack Real Estate  
24                  Board, the Association of Interior Realtors, the  
25                  BC Northern Real Estate Board, the Kootenay

1 Association of Realtors and the Kamloops  
2 Association of Realtor -- Kamloops and District  
3 Association of Realtors. I think I've covered  
4 them.

5 MS. ROSE: Okay. I also wanted to flag for the  
6 Commissioner that many of the details of the  
7 architecture of the BCREA are set out in the  
8 overview report which is at exhibit 603. I'm  
9 afraid I don't have the page number, but I do --  
10 I think it would be under a heading there.

11 There's also some description of the BCREA  
12 in its activities at exhibit 601, which is the  
13 overview report on money laundering literature  
14 in real estate and industry response. So I'll  
15 propose to dispense with a detailed review of  
16 the architecture of the BCREA.

17 THE COMMISSIONER: Thank you.

18 MS. ROSE:

19 Q Ms. Hyde, I understand that the BCREA has an  
20 educational function, could you describe that  
21 briefly, please.

22 A (DH) We do. We have a general educational  
23 function, which largely goes to realtors and  
24 licensees and it covers a wide swathe of  
25 subjects. Lately most of that -- well, the

1                    lions share of it has been on online platforms.

2                    But yes, we dedicate much of our resources to

3                    educating realtors on a number of subjects.

4                    Q    One of those subjects is anti-money laundering?

5                    A    (DH) You bet.    Yes.

6                    Q    And I understand that you've created a course on

7                    the anti-money laundering obligations of

8                    managing brokers.    Could you just describe that.

9                    A    (DH) Yes.    This is a pretty significant lift on  
10                    our behalf.    A significant investment in order  
11                    to build competence -- confidence and a stronger  
12                    culture of compliance among managing brokers and  
13                    compliance officers.    So it was launched last  
14                    October.    And our target audience, as I say, is  
15                    the managing brokers/compliance officers  
16                    throughout the province.

17                                       So far about 160 -- just north of 160  
18                    managing brokers/compliance officers have been  
19                    through it.    We did this as a result of focus  
20                    groups which told us that managing brokers felt  
21                    by and large ill equipped to deal with many of  
22                    the demands associated with anti-money  
23                    laundering reporting.    So, it was basically our  
24                    effort to help them bootstrap themselves in  
25                    terms of getting more competent and more

1 confidence in this area. It's a nine-week  
2 course. There's nine separate modules. I could  
3 go into each module if you wish, but we have  
4 cameo appearances from Maureen Maloney of the  
5 expert panel, Peter German, FINTRAC and the  
6 Canadian Real Estate Association.

7 And we're also looking at helping making the  
8 managing broker more of a risk manager, you  
9 know, as opposed to just focusing on filling out  
10 forms. Having a look at inherent risks, what  
11 they can do to mitigate risks and looking at  
12 their risk tolerance.

13 So basically we are also attempting in 2.0,  
14 which is the next iteration of this program, to  
15 give them more confidence around the FINTRAC  
16 changes that are coming along in June of 2021  
17 around beneficial ownership, business  
18 relationships, that kind of thing. Yeah. So  
19 the idea is to take these courses and then flow  
20 them through to the brokerage and eventually  
21 cover all 1,300 managing brokers and hopefully  
22 take this beyond BC borders at some point.

23 MS. ROSE: Madam Registrar, could I please have  
24 BCREA00116 on the screen.

25 Q So, Ms. Hyde, is this the first module of that



1 course?

2 A (DH) It is. The culture of compliance.

3 Q Okay. And you mentioned that there are nine  
4 modules.

5 A (DH) Right.

6 Q Are some of those modules videos?

7 A (DH) There are video segments.

8 Q So I understand we've been provided with six of  
9 the nine modules of this course and my  
10 understand is that those are the modules that  
11 are capable of being reduced to PDF form. Is  
12 that right, Ms. Hyde?

13 A (DH) I'm not sure of that. I thought we could  
14 provide you with all nine, but I'm not clear on  
15 that.

16 Q I think we had some discussion through counsel  
17 that there are some difficulties with  
18 flattening, if I can use that word, some of the  
19 videos.

20 A (DH) Okay.

21 MS. ROSE: But what I would propose to do,  
22 Mr. Commissioner, is enter all of these modules  
23 as exhibits. So this one is module 1. We have  
24 module 2, module 3, module 5, module 7 and  
25 module 8 and those are sequentially numbered

1           from -- this module is BCREA0116, the remaining  
2           modules are 17 to 21. I would just propose that  
3           we enter all of those as exhibits. These are  
4           documents that have been provided to  
5           participants, so I am hoping to dispense with  
6           the need to identify each one individually.

7           THE COMMISSIONER: All right. I think we can mark  
8           them collectively, then, as the next exhibit.

9           THE REGISTRAR: Yes, Mr. Commissioner. That will be  
10          exhibits 623 to up to 628.

11          THE COMMISSIONER: I'm sorry. I think we can mark  
12          them collectively.

13          THE REGISTRAR: Oh, collectively. Yes, certainly.  
14          So that will be 623.

15          THE COMMISSIONER: Yeah. Thank you.

16                 **EXHIBIT 623: Mastering Compliance - AML**  
17                 **Training for Brokers: Module 1: Introduction**  
18                 **and Culture of Compliance; Module 2: Defining**  
19                 **Roles and Responsibilities; Module 3:**  
20                 **Compliance Reporting and Record Keeping;**  
21                 **Module 5: Risk Assessments; Module 7: The**  
22                 **Training Program; Module 8: Effectiveness**  
23                 **Review and Examinations, Part 1**

24          MS. ROSE: Thank you, Mr. Commissioner.

25          Q     I don't propose to go through each module in

1 detail by any means. But, Ms. Hyde -- and so  
2 for that purpose I should ask.

3 MS. ROSE: Madam Registrar, we could take this  
4 document down now.

5 Q Ms. Hyde, could you briefly explain how this  
6 course is different than the Real Estate Council  
7 of BC's anti-money laundering course?

8 A (DH) The real estate council's anti-money  
9 laundering course is for realtors for the front  
10 line. This is expressly focused on  
11 strengthening the managing brokers/compliance  
12 officer role which is a supervisory and  
13 oversight role, and as I said, making them  
14 better managers of risk. So it's also not  
15 mandatory, unlike the council's course.

16 Q Okay. And you mentioned focus groups. Could  
17 you just expand on how the BCREA developed this  
18 course.

19 A (DH) Well, from a number of sources, including  
20 focus groups, talking with stakeholders, finding  
21 the vulnerabilities in the managing brokers'  
22 world view of the AML situation. So it was a  
23 number of directions and we pulled this together  
24 into a pretty comprehensive course.

25 Q And are there any other courses of note in the

1 money laundering context that the BCREA has  
2 prepared?

3 A (DH) Not at this time. We've had podcasts.  
4 We've had -- I wouldn't say they rise to the  
5 level of courses. They're information and  
6 professional development conversations, but no,  
7 we're hoping to take this to 2.0 this year to  
8 incorporate some of the FINTRAC changes of  
9 June of this year and to just improve on it  
10 based on the feedback we're getting.

11 Q And are there any particular areas of  
12 improvement for the version 2.0?

13 A (DH) Well, as I said, the changes in FINTRAC  
14 requirements as of June of this year are very  
15 important around beneficial ownership, business  
16 relationships, those kind of things. We also  
17 get a sense that perhaps the two-year risk  
18 assessment and the two-year -- what is it -- the  
19 effectiveness review could use a bit more  
20 in-depth roll up your sleeves focus.

21 Q Analysis or focus, yeah.

22 A (DH) Yeah. Yeah.

23 Q And so you mentioned some the publications or  
24 podcasts. I just also wanted to flag for the  
25 Commissioner exhibit 601, which is the overview

1                   report on literature and industry response. The  
2                   publications, bulletins and infographics  
3                   prepared by the BCREA are set out beginning at  
4                   page 35.

5                   THE COMMISSIONER: Thank you.

6                   MS. ROSE:

7                   Q     So, Ms. Hyde, could you describe BCREA's efforts  
8                   to understand the industry's experience with and  
9                   education level regarding money laundering  
10                  issues?

11                 A     (DH) Efforts to understand the industry's ...

12                 Q     Industry's experience and education level with  
13                  respect to money laundering issues.

14                 A     (DH) I think it goes back to the question on  
15                  focus groups that you've asked me. We checked  
16                  with in with the managing brokers. We've had  
17                  numerous conversations with them about this  
18                  situation and we also looked at some of the  
19                  reports that we're getting and from -- that we  
20                  see from FINTRAC and recognize that education  
21                  could be a big change agent in a situation.

22                 Q     And from those efforts what is your sense of how  
23                  the industry's awareness of money laundering has  
24                  changed over the past several years?

25                 A     (DH) Well, I would say the first thing that

1           comes to mind is if I were to roll back  
2           three years ago when I first got to BCREA, what  
3           I would hear is that we don't take cash, so we  
4           don't have a money laundering problem. And I  
5           think that concept has been totally left in the  
6           dust. I think people get it that largely cash  
7           is not taken on by any Real Estate Board or by  
8           any brokerage. It's rare that cash is received  
9           as a -- by form of deposit. But -- that's a  
10          good step. It's necessary but insufficient  
11          because really cash is used at the early stages  
12          of money laundering in terms of placement. But  
13          the real estate vulnerabilities tend to be into  
14          the integration and -- the layering and  
15          integration stages in which you have non-cash  
16          instruments.

17                 So I think there is a sense that, one, if  
18                 there are triggers being -- if there are red  
19                 flags being brought up or triggers that one has  
20                 to inquire into the provenance of the non-cash  
21                 instrument. I think that would be, from my  
22                 points of view, one of the key evolutions over  
23                 the past few years that I've seen. I've also  
24                 seen an increasing awareness on the part of  
25                 realtors and managing brokers that this is an

1                   issue that lands squarely in the real estate  
2                   space and we need to be taking it seriously and  
3                   doing something about it.

4           Q       And do you think that the sense of needing to  
5                   take it seriously is one that has evolved  
6                   over time, it's a little bit different from how  
7                   it was a few years ago?

8           A       (DH) Well, I think there's -- it's an emerging  
9                   issue. There's been a lot of attention paid on  
10                  the issue in the last few years. So yes, I  
11                  think society has moved that way. The province  
12                  has moved that way. Everybody is moving in that  
13                  direction.

14          Q       And some of the reporting you're referring to is  
15                  media reporting that is focused on money  
16                  laundering in BC and particularly with respect  
17                  to real estate over the past few years?

18          A       (DH) That's correct, yeah.

19          Q       And I'll also just let the Commissioner know  
20                  that much of that media reporting is set out in  
21                  overview report at exhibit 601.

22                         So I understand -- sorry, I just wanted to  
23                         touch on one additional potential misconception.  
24                         You mentioned the issue of thinking that if no  
25                         cash is accepted, then there is no role for

1 money laundering. Would you also say that there  
2 is a misconception about what an "all cash"  
3 purchase is in real estate? The distinction  
4 between a purchase of real estate that is all  
5 cash, meaning it is not done with any mortgage  
6 or financing, as compared to one that is  
7 actually purchased with physical cash. Is that  
8 a misconception that you see in your work?

9 A (DH) Not really because typically the realtor  
10 takes a deposit which is a small portion of the  
11 total value of the transaction. It might be 5  
12 or 10 percent. The moneys for the total  
13 transaction go through a channel, the  
14 conveyancing channel, to which the realtor is  
15 effectively blind.

16 So no, I don't see that that has been an  
17 issue for a realtor. They deal in deposits. No  
18 matter what -- no matter how the transaction is  
19 financed or not.

20 Q Understood. And I do want to go through a bit  
21 about the role of the real estate agent in a  
22 transaction but first I wanted to ask about the  
23 BCREA's advocacy efforts. I understand that you  
24 prepared some recommendations on the topic of  
25 anti-money laundering. Could you speak to





1                   currently now just joined the Canadian Real  
2                   Estate Association's national task force on  
3                   money laundering. So that's the overview.

4                   As to various reports I can talk to you  
5                   about the recommendations we made around each  
6                   one, if that's where you want to go.

7           Q       Well, I was interested in -- I understand that  
8                   BCREA prepared a set of joint recommendations  
9                   with the Appraisal Institute of Canada, the  
10                  BC notaries and the Canadian Mortgage Brokers  
11                  Association of BC as well as the Real Estate  
12                  Board of Greater Vancouver. And I'm happy to  
13                  pull these up, if that would be of assistance.

14          A       (DH) That's great.

15          MS. ROSE: Okay. Madam Registrar, this is at the  
16                  overview report on literature and industry  
17                  response, which is at 601. And I'm sorry, I  
18                  think I have you at the wrong appendix here. It  
19                  might be appendix 21. Yes. If you can scroll  
20                  down to the next page, please. And keep  
21                  scrolling. Sorry, keep scrolling. Here we are.

22          Q       I just wanted to focus on these recommendations  
23                  here. Thank you.

24          A       (DH) Great.

25          Q       So, Ms. Hyde, I was hoping you could tell us

1           about the process for liaising with these other  
2           district groups in arriving at these  
3           recommendations and perhaps just describe why  
4           these were the recommendations chosen by those  
5           groups.

6           A     (DH) Right. We have a kind of a network  
7           association of real estate players and the  
8           notaries, the mortgage brokers, the appraisal  
9           institute and the Real Estate Board of Greater  
10          Vancouver were a part of that. And we did a lot  
11          of thinking and put a lot of thought into some  
12          fundamental principles that, if they were  
13          followed, would serve to strengthen the  
14          anti-money laundering regime and the compliance  
15          and practice of anti-money laundering. So I  
16          will take you through the five principles.

17                The first is accept only verifiable funds.  
18                Those verified at financial institutions.  
19                Basically brokerages typically don't take cash  
20                but that's by the by. Basically to accept  
21                verifiable funds. That was the first one.

22                The second was to introduce mandatory  
23                anti-money laundering training for all frontline  
24                people in the sector. And subsequent to this --  
25                this was April 2019. Subsequent to this,

1                   council introduced mandatory anti-money  
2                   laundering training for all realtors in the  
3                   province.

4                   The third is smart regulation. And smart  
5                   regulation takes a little bit of time to  
6                   explain, but it is seen as being harmonized, not  
7                   a patchwork. Shared data standards. Common  
8                   thresholds. Information sharing between  
9                   agencies. Integrated. Sometimes you have to  
10                  get rid of bureaucratic silos in order to do the  
11                  work from a larger perspective. No holes, gaps  
12                  or blind spots, but similarly no duplication of  
13                  effort. Efficient. And the thought that maybe  
14                  regulatory burden sometimes doesn't equal smart  
15                  regulation. We need to encourage compliance.

16                  The fourth one is to engage with the sector.  
17                  That regulators and FINTRAC should be talking to  
18                  people who practise real estate and to get kind  
19                  of boots on the ground, real world situations so  
20                  that the interventions that are designed can be  
21                  designed in such a way as to fit the way the  
22                  practice really works. So they are -- they fit  
23                  with reality. And the fifth one is timely,  
24                  transparent feedback loops so that you get  
25                  feedback that is timely, that's targeted, that's

1                   tight, that speaks quite quickly to where things  
2                   may be going off the rails.

3                   So those were the five principles of  
4                   anti-money laundering regime descriptions, shall  
5                   we say, that we felt could really make a  
6                   significant difference on the AML scene.

7                   MS. ROSE: Madam Registrar, I think we can take this  
8                   document off the screen. I was hoping that we  
9                   could bring up BCREA67.

10                  Q    And I apologize, I think I've created some  
11                   confusion by referring to two different copies  
12                   of the same document, but I just wanted to  
13                   confirm, Ms. Hyde, this is the statement that  
14                   BCREA released in discussing those four -- or  
15                   those five recommendations you just described.

16                  A    (DH) Right. Right.

17                  MS. ROSE: Okay. And, Mr. Commissioner, I would ask  
18                   that we have BCREA0067 entered as -- are we at  
19                   622, Madam Registrar?

20                  THE REGISTRAR: No. This one will be 624.

21                  MS. ROSE: Thank you. 624.

22                  THE COMMISSIONER: Thank you.

23                               **EXHIBIT 624: BC Real Estate Sector Anti-Money**  
24                               **Laundrying Recommendations to Government - April**  
25                               **15, 2019**

1 MS. ROSE: Okay. So, Ms. Hyde -- sorry, Madam  
2 Registrar, I think we are finished with this  
3 document.

4 Q Ms. Hyde, you mentioned a Deloitte report. So  
5 can you describe what that was and the process  
6 to have that report commissioned.

7 A (DH) Yes. There was a sense that the real  
8 estate transaction is made up of several kind of  
9 nodes, whether there's the realtor, there's the  
10 funding and the financier. There's the  
11 appraiser. There's, you know, other sectors and  
12 that there could be vulnerabilities in some of  
13 these sectors.

14 The realtor may not see some of these nodes,  
15 like the conveyancing node, which I should have  
16 mentioned. But nobody really outside of the  
17 client has visibility into all of these nodes on  
18 the transaction. So we hired Deloitte to have a  
19 look at what, where the vulnerabilities were.  
20 They had some findings which I'm glad -- happy  
21 to share with you. But they felt that there  
22 were gaps in the total transaction around --  
23 basically the conveyancing side of things and  
24 the unregulated lender side of things were blind  
25 really beyond the FINTRAC reporting obligations.

1                   So they were blind spots from a point of view of  
2                   the oversight. Unregulated lenders and legal  
3                   professionals have no reporting obligations to  
4                   FINTRAC.

5                   As I mentioned before, the realtor has no  
6                   visibility into the conveyancing segment of the  
7                   transaction because they deal in deposits, nor  
8                   do they have any kind of involvement in the  
9                   financing side of the equation. So those were  
10                  some of the findings. Deloitte was -- also said  
11                  it was not sure whether suspicious transactions  
12                  were either not happening at all or whether they  
13                  were happening but not being recognized by  
14                  realtors. So they made that comment. And they  
15                  also made the comment that not dealing in cash  
16                  was a good step but certainly insufficient to  
17                  the task at hand.

18                Q    Okay. Before we get into all the findings of  
19                    the report, I just wanted to back up a little  
20                    bit. And could you describe why BCREA thought  
21                    it was important to undertake this assessment.

22                A    (DH) Okay. Because we just felt that we  
23                    couldn't see -- we, from speaking from the  
24                    realtor's perspective, could not see the whole  
25                    transaction and we wanted to understand the

1 whole chain of transaction -- the whole chain  
2 within the transaction better.

3 MS. ROSE: Okay. And, Madam Registrar, could we  
4 please have BCREA0111.

5 Q And I'm just going to display a document which I  
6 believe is a letter that you wrote on behalf of  
7 the BCREA to the expert panel on money  
8 laundering, which I understand resulted in the  
9 Maloney report. Is this a letter that you  
10 wrote? We can scroll down to the bottom if  
11 you'd like to see the signature.

12 A (DH) Yes. This did not result in the creation  
13 of the Maloney report; this resulted in us  
14 hiring Deloitte.

15 Q That's right. But it was addressed -- this  
16 letter is addressed to the expert panel.

17 A (DH) Oh, yes. Yes. Yes, it was.

18 Q Right. And the expert panel was the panel that  
19 authored the Maloney report.

20 A (DH) Right. Right.

21 Q Okay. So this letter, you wrote this letter?

22 A (DH) I believe I did, yes. I signed it.

23 Q Okay. And could you just describe what this  
24 letter is.

25 A (DH) This is a proposal for risk assessment on



1 money laundering in real estate.

2 Q Okay. And so am I right that BCREA took the  
3 initiative to make this proposal to the expert  
4 panel, and this letter is seeking approval or  
5 seeking insight from the expert panel on whether  
6 the risk assessment would be valuable to them?

7 A (DH) Yes.

8 MS. ROSE: Okay. Mr. Commissioner, I would ask that  
9 this be entered as exhibit 625.

10 THE COMMISSIONER: Very well.

11 THE REGISTRAR: Exhibit 625.

12 **EXHIBIT 625: Letter from Darlene Hyde to Expert**  
13 **Panel on Money Laundering re proposal for risk**  
14 **assessment on money laundering in real estate -**  
15 **December 10, 2018**

16 MS. ROSE: Okay. And I'll take that off the screen,  
17 please, Madam Registrar. And, Madam Registrar,  
18 could we now please have -- I just want to be  
19 careful here because I don't want to duplicate  
20 documents that are already in evidence. So if  
21 we could go to exhibit 601, which is the  
22 overview report on literature and industry  
23 response.

24 THE REGISTRAR: Where on the overview report. And  
25 which index do you ...

1 MS. ROSE: You are one step ahead of me, Madam

2 Registrar. Thank you. I was hoping to go to

3 appendix 19.

4 Q And so, Ms. Hyde, is this the result of the

5 proposal that you made to the expert panel?

6 A (DH) This is the report from Deloitte on their

7 study.

8 Q And this was the study that was done in response

9 to the proposal that you made to the expert

10 panel?

11 A (DH) That's correct.

12 MS. ROSE: Okay. So if we could just scroll down, I

13 think to page 9 of this report. One more page.

14 I'm sorry. I guess it's page 10. If we could

15 keep scrolling. This is the page I was looking

16 for.

17 Q So, Ms. Hyde, this is a depiction of the real

18 estate transaction process set out by Deloitte;

19 is that right?

20 A (DH) It is. It's not on my page 10, though.

21 Q Yes, I'm sorry. I've got the page number wrong

22 here. I believe it's page 12 of the report.

23 A (DH) Right.

24 Q So, first of all, do you agree with this

25 depiction of the steps of a real estate

1 transaction?

2 A (DH) Yes.

3 Q And there are three arrows to certain little  
4 green houses here. Could you just describe what  
5 those represent.

6 A (DH) Those would represent the areas where the  
7 realtor gets involved. So the knowing the  
8 client, the purchase and sale and the deposit.

9 Q Okay. And those are described further in the  
10 paragraph below this graphic?

11 A (DH) Right. It is. Yeah, they are.

12 MS. ROSE: Okay. And could we move to the next page,  
13 please, Madam Registrar.

14 Q Okay. And so can you just briefly describe what  
15 this graphic is depicting, Ms. Hyde.

16 A (DH) Well, this is depicting the fact that there  
17 are several parties in a transaction and the  
18 realtor has the connectivity to knowing the  
19 client, the purchase and the deposit and there  
20 are other pieces in the transaction.

21 Q And so I'm going to read the line -- the two  
22 lines at the bottom of this page:

23 "There are multiple parties and  
24 professionals in each real estate  
25 transaction that have sight on a crucial

1 piece of the process. However a systemic  
2 risk in the nature of these transactions  
3 is that no single party may be involved in  
4 the entire ... process."

5 Now, that was what you were referring to  
6 earlier, Ms. Hyde, where the client is the only  
7 one that sees all the different nodes of the  
8 transaction?

9 A (DH) Right. That's correct.

10 Q Okay. And could you expand on this concept a  
11 little. Why is it that -- or in your view, in  
12 the BCREA's view, why is it that realtors are an  
13 important piece of this puzzle?

14 A (DH) Well, because they are charged with  
15 understanding the motivations for the client in  
16 buying or selling a home, so they are charged  
17 with knowing a little bit about the principal  
18 character in the whole transaction as to their  
19 motivations. They help with the transaction  
20 itself, the sale, and they also take a deposit  
21 on the property. So they are a critical part of  
22 the transaction.

23 Q Has this been something that is difficult for  
24 real estate agents that they are being required  
25 to provide information when they don't have full

1 insight to the transaction?

2 A (DH) Well, I would say that they are certainly  
3 required to do the client ID basically verifying  
4 who the person is. As to other kind of  
5 questions, I think it depends on whether the  
6 narrative hangs together, you know, and whether  
7 there would be trigger to ask more questions as  
8 to, you know, where is the money coming from.  
9 Typically it's coming from the sale of another  
10 home or asking a question about, do you have  
11 enough money to pay for this. Again, something  
12 that would only be asked if there were concerns  
13 on the part of the realtor that this deal might  
14 not close.

15 So by and large I don't think the realtor  
16 has difficulties with the questions that they  
17 ask the client. They have a fiduciary  
18 responsibility to that client within the context  
19 of privacy issues and within the context of  
20 their FINTRAC obligations.

21 MS. ROSE: Madam Registrar, could we turn to page 19  
22 of this document. I think I have the wrong  
23 page numbers in my notes. I apologize. Could  
24 we go down one more page. That's not it either.  
25 Just -- I'm sorry, just give me a moment.

1                   Perhaps down one more page. And one more page.  
2                   I'm going to do my best to find the right  
3                   page reference. So what I'm looking for is  
4                   actually page 18 of this document, so I think  
5                   it's 1718 of the overview report. One more  
6                   down. Just page 18. Okay.

7                   My apologies for all that confusion,  
8                   Mr. Commissioner.

9                   Q    Okay. So, Ms. Hyde, on the second paragraph of  
10                  this page, some interviewees -- and I take that  
11                  to be those interviewed by Deloitte -- disagreed  
12                  with being "deputized to do the government's  
13                  job." I wonder if you can expand on this  
14                  comment in reference to this sort of issue of  
15                  realtors being asked to provide information on  
16                  one of the nodes of the real estate transaction.

17                 A    (DH) I'm trying to remember how many people  
18                  Deloitte interviewed. But it wasn't a lot, so it  
19                  was a very small sample. So I would think maybe  
20                  that came up as a comment, but by and large  
21                  realtors take the client ID seriously. They  
22                  either do it through government issued ID and  
23                  credit check.

24                  As to other questions, I think it's a  
25                  risk-based approach as to whether the situation

1                   calls for additional questioning. Certainly the  
2                   nature of the business where the funds are  
3                   coming from usually arise organically in a  
4                   discussion with the client. So I -- "deputized  
5                   to do the government's job," that might have  
6                   been one or two people. Again, a very small  
7                   sample. If memory serves, I think they  
8                   interviewed nine people, but I could be wrong.  
9                   But it was not a huge number of people. So --

10            Q     So your --

11            A     (DH) Go ahead.

12            Q     So your view is that this view is not one that  
13                   is pervasive in the industry?

14            A     (DH) No. No.

15            Q     Okay. You know, even if it is a small segment  
16                   of the industry -- and I should actually -- in  
17                   fairness, I should go back a moment. This slide  
18                   I understand to be in reference to some of the  
19                   suspicious transaction indicators published by  
20                   FINTRAC. And as you'll see, most interviewers  
21                   recalled that there were indicators published,  
22                   there were varying views of the usefulness of  
23                   the indicators. So I think just -- the  
24                   "deputized to do the government's job," I think  
25                   that in fairness is in reference to reporting on

1 suspicious transaction reports.

2 Do you see a resistance to reporting on  
3 suspicious transactions within the industry?

4 A (DH) You know, on the whole I have to say no,  
5 but education is making a big difference and  
6 awareness is making a big difference. This was  
7 February -- when was this? February 2019. So  
8 this is prior to the implementation of the  
9 mandatory education by council, prior to our  
10 mastering compliance course. I will say that  
11 the nine-week UBC course that qualifies people  
12 to be a realtor doesn't really give them the  
13 tools to be an investigator. So I do think that  
14 education and awareness makes a huge difference  
15 on the part of any kind of mindset that would go  
16 along these lines.

17 Q How -- you know, with BCREA's mandate how do you  
18 deal with views like this one? Is this one that  
19 calls for, as you mentioned, additional  
20 education that will sort of go away with time?  
21 Is this something that calls for more discipline  
22 or how does BCREA deal with views like this that  
23 persist in the industry?

24 A (DH) Well, I would say it's a combination of  
25 education and consequences basically for not



1                   adhering to the obligation that FINTRAC imposes  
2                   on realtors and on our sector. So I think, as I  
3                   said before, it's an emerging issue. It's taken  
4                   precedence over the last few years and I do  
5                   think that this is a comment that's two years  
6                   old and I would wager that that kind of  
7                   attitude, if it was prevalent then, I would say  
8                   it's not prevalent now or not nearly as  
9                   prevalent.

10                  MS. ROSE: Okay. So if we could move down to what I  
11                  have in my notes as page 23 of this document.  
12                  I'm nervous now that this page number might not  
13                  be correct, but let's see.

14                  Q    So in here we have some comments about the  
15                  transaction features that are not seen by a real  
16                  estate agent and a lack of visibility into the  
17                  funding of a real estate transaction. So,  
18                  Ms. Hyde, you're aware of these comments on this  
19                  page?

20                  A    (DH) Right. I am.

21                  Q    Do you have any response or suggestions flowing  
22                  from these comments?

23                  A    (DH) I think not really except to reiterate the  
24                  fact that realtors are part of the puzzle and  
25                  that they do not have access or visibility into

1           either funding, financing and/or the  
2           conveyancing stream. So they are part of the  
3           total equation and they are blind to certain  
4           parts of the transaction.

5           Q     And if we went back to page 22. This page deals  
6           with financing of property transactions. And I  
7           note, Ms. Hyde, that the first line on this  
8           page is that financing of the property is  
9           between the client and the lender. And several  
10          realtors mentioned being aware of mortgage  
11          brokers or alternative lenders; however,  
12          expectations were mixed. Some expected that due  
13          to working relationships they would be notified  
14          and others indicated that it was not their job  
15          to arrange funding. They did not want to --  
16          want or care to know about the client's income.

17                     And, Ms. Hyde, we heard this morning from  
18          the Real Estate Council of BC that there is no  
19          obligation on real estate agents to inquire into  
20          a client's financial ability to pay or their  
21          source of funds except in the context of  
22          deposits or in a context where there are other  
23          flags of suspicion.

24          A     (DH) Right.

25          Q     Do you have any views on whether this should be

1           a requirement on real estate agents to inquire  
2           into the client's ability to pay?

3           A     (DH) Again I go back to a risk-based approach  
4           rather than a cookie-cutter approach and have to  
5           ask this question in all circumstances. I  
6           believe if the narrative starts to kind of sound  
7           a little strange to a realtor, then a suspicious  
8           transaction is emerging and that this may be  
9           something to pay attention to. But in terms of  
10          the normal routine transactions, those kinds of  
11          things emerge in a conversation as between a  
12          home buyer and a seller. Those -- the  
13          situations generally emerge organically. You  
14          know, I've just sold my home; I want to buy  
15          another; the proceeds from the sale are going to  
16          go to the next home.

17                 So, you know, I worry about a situation  
18          where we have to ask the questions of everybody  
19          for maybe 2 percent of a universe that actually  
20          raised a question. So that would be my response  
21          to this that you need to use some judgment in  
22          terms of when further probing and questioning is  
23          required and when it's clearly not.

24          Q     Some of the commentary of the previous panel and  
25          in this report from Deloitte speaks to a bit of

1           a difficulty in determining where reporting of a  
2           suspicious transaction or inquiries to suss out  
3           potential indicators of a suspicion transaction,  
4           where that further work is needed. Do you think  
5           it would be useful to have sort of, as you say,  
6           a cookie-cutter approach in order to remove that  
7           grey area, or is your view that having an  
8           excessively cookie-cutter approach would be not  
9           helpful to the industry?

10           A     (DH) You know, again, I look at these comments  
11           made two years ago and in that intervening time  
12           we've had education mandatory for realtors that  
13           hopefully will provide a lot more guidance than  
14           they had at the time around suspicious  
15           transactions and a lot more guidance around when  
16           to use judgment and how to use judgment and when  
17           to ask questions and what types of questions to  
18           ask depending on the situation that presents  
19           itself.

20                     So that's how I would answer this that this  
21           was before the regulator, the provincial  
22           regulator engaged in serious education of  
23           frontline realtors on a mandatory basis before  
24           we engaged with the mastering compliance  
25           program. And so I would say, yeah, there

1                   probably were gaps and question marks and  
2                   confusion and we're hoping that education, if --  
3                   it's not the silver bullet but is certainly one  
4                   avenue for clearing up a lot of these issues.

5           Q       And because of the unveiling of the BCREA course  
6                   and the RECBC course and continued awareness of  
7                   this issue your view is that there's been a  
8                   significant shift over the past two years?

9           A       (DH) I believe there has been, and this will  
10                   evolve. This -- you know, this situation will  
11                   evolve as the regime evolves, as anti-money  
12                   laundering oversight evolves, those kinds of  
13                   things. And, you know, over time society may  
14                   change. I mean, 20 years ago we didn't have to  
15                   go through what we go through at airports now in  
16                   terms of security, but we all do now. We all do  
17                   because of the real and clear dangers to us  
18                   around terrorists.

19                               But I would say right now I think at this  
20                   point in time education is making a huge  
21                   difference in terms of realtors' mindsets and  
22                   managing brokers' mindsets.

23           MS. ROSE: And, Madam Registrar, could we please have  
24                   page 33 of this document.

25           Q       So this page, Ms. Hyde, I think refers to some

1                   concerns that real estate agents may have when  
2                   reporting to FINTRAC. So as you can see on the  
3                   page, one of them is concerned about doing the  
4                   government's job. An other individual reported  
5                   a concern of their personal safety. Do you --  
6                   is your view that these concerns continue to  
7                   persist in the industry or have these been  
8                   alleviated through the education and other  
9                   efforts you described?

10                A     (DH) Well, they certainly have been a concern in  
11                   terms of realtors not understanding that they  
12                   can make these suspicious transaction reports in  
13                   confidence and they do not have to abandon the  
14                   deal or the client. And certainly nobody needs  
15                   to know who made the suspicious transaction  
16                   report. It goes to FINTRAC, it's a data point  
17                   and it's a totally clean situation.

18                                So I think that the education, again, is  
19                   something that is going to help with some of  
20                   these misunderstandings. But yes, they were  
21                   part of the landscape and have been part of the  
22                   landscape.

23                MS. ROSE: Okay. Madam Registrar, I think I'm  
24                   finished with this document for the time being.

25                Q     So, Ms. Hyde, I understand that BCREA is

1 affiliated with the Canadian Real Estate  
2 Association.

3 A (DH) We are.

4 Q And the Canadian Real Estate Association has  
5 prepared some template forms for reporting  
6 suspicious transactions to FINTRAC by real  
7 estate agents?

8 A (DH) They have.

9 Q And what other practice tools are available to  
10 the industry with respect to suspicious  
11 transaction reporting?

12 A (DH) Well, I understand that the Canadian Real  
13 Estate Association also has a compliance manual.  
14 It does need continual updating for sure. But  
15 they do provide that plus their forms around  
16 suspicious transaction reports. And that's what  
17 I know of CREA's involvement.

18 Q And I also understand that FINTRAC has prepared  
19 some conferences or presentations to industry?

20 A (DH) S correct. FINTRAC came to two of our  
21 conferences back in '18 and '19.

22 Q And what is your view on the effectiveness of  
23 these presentations?

24 A (DH) I think they were a good first step and  
25 they were a first step in terms of introducing

1 FINTRAC to managing brokers, that was the  
2 audience of the conferences that we had. But  
3 certainly you can't stop there. It was more of  
4 a lecture or a, you know, presentation and what  
5 have you. But I think there's -- there really  
6 needs to be continual collaboration as between  
7 the sector, the provincial regulator insofar as  
8 they are involved in anti-money laundering and  
9 certainly FINTRAC.

10 It has to be sort of roll up your sleeves,  
11 sit around a table and let's figure out some  
12 solutions to some of these issues as opposed to  
13 speaking at conferences, which we really  
14 appreciated. And we do appreciate the fact that  
15 FINTRAC has just told us that they were be part  
16 of our Mastering Compliance 2.0 which is great.  
17 So we are looking forward to collaboration on  
18 that front.

19 MS. ROSE: Madam Registrar, could we please have  
20 document CAN-001330.

21 Q And I understand that this is a presentation to  
22 the BC Real Estate Association on  
23 September 19th, 2018. Do you recognize this  
24 presentation, Ms. Hyde?

25 A (DH) Yes. It goes back a few years.



1 Q And this is one of the presentations you were  
2 describing that FINTRAC has provided?

3 A (DH) That's correct.

4 MS. ROSE: Mr. Commissioner, I would ask that this be  
5 marked as the next exhibit, which I believe is  
6 exhibit 626.

7 THE COMMISSIONER: Very well. 626. Thank you.

8 THE REGISTRAR: Exhibit 626.

9 **EXHIBIT 626: FINTRAC AML/TF Real Estate Sector**  
10 **Presentation - September 19, 2018**

11 MS. ROSE: And Madam Registrar, could we now have  
12 document CAN-001331.

13 Q And, Ms. Hyde, are you familiar with this  
14 presentation which was made to the Canadian Real  
15 Estate Association?

16 A (DH) I wasn't there, but I recognize the  
17 document.

18 Q You've seen it before?

19 A (DH) I have, yes.

20 MS. ROSE: Okay. Could we have this document marked  
21 as the next exhibit, 627.

22 THE COMMISSIONER: Very well.

23 **EXHIBIT 627: FINTRAC's presentation to**  
24 **representatives of the Canadian Real Estate**  
25 **Association - June 5, 2018**

- 1 MS. ROSE: And I am sorry, if we could go back to  
2 626. Exhibit 626 at page 24.
- 3 Q So, Ms. Hyde, do you recognize these indicators?  
4 A (DH) Just let me get to 24. Yes.
- 5 Q And what are these indicators?  
6 A (DH) These are things that should give a realtor  
7 pause if something like this happens in terms of  
8 a red flag.
- 9 Q And these are published by FINTRAC?  
10 A (DH) Yes.
- 11 Q And how do members of the industry access this  
12 information?  
13 A (DH) Well, they have a compliance officer in  
14 every brokerage and the compliance officer is  
15 responsible for the oversight of anti-money  
16 laundering activity. So, the compliance officer  
17 should be in constant contact with realtors  
18 around suspicious transaction reports, red  
19 flags, when to ask questions, when to think  
20 about filing a report and the -- if there are  
21 any questions that a realtor would have around  
22 actioning any of these red flags, they should  
23 talk to their compliance officer.
- 24 Q And the compliance officer, is that the same  
25 thing as a managing broker?

1           A       (DH) Mostly it is. Mostly it is. Sometimes  
2                   not.

3           Q       And so the sort of learning of this material and  
4                   then disseminating it to the real estate agents,  
5                   that's the responsibility of the managing  
6                   broker?

7           A       (DH) It is. It is. I mean, the -- both realtor  
8                   and managing broker have responsibilities for  
9                   suspicious transaction reports and for terrorist  
10                  reports. Other responsibilities are held by the  
11                  compliance officer/managing broker but can be  
12                  delegated down to the realtor. But as with any  
13                  delegation, responsibility rests with the  
14                  individual who delegated the work. So yes, the  
15                  accountability/responsibility is with the  
16                  compliance officer/managing broker.

17          Q       And do you know how a compliance officer would  
18                   obtain copies of this type of information from  
19                   FINTRAC?

20          A       (DH) I cannot say that I do.

21          Q       Okay. Are you aware of whether there is a  
22                   resource at least for BC real estate agents or  
23                   managing brokers or compliance officers that  
24                   provides a sort of central hub of this material?

25          A       (DH) I don't know.

1           Q     Do you think -- in your view, in your experience  
2                   with engaging with industry, do you think that  
3                   it would be helpful to have such a hub of  
4                   information?

5           A     (DH) I do indeed because I think that the  
6                   FINTRAC mandate is national and often the  
7                   reports that we get and the scope that we see is  
8                   national and something that is a bit more  
9                   targeted and focused on the province or  
10                  provincial needs might be useful.

11          Q     Do you see the sort of lack of convenience of  
12                  obtaining this FINTRAC guidance as being a  
13                  barrier for compliance officers to being up to  
14                  date on FINTRAC guidance?

15          A     (DH) Well, if that's true -- and I don't know  
16                  that it is. I'm just saying I don't know if  
17                  there's a hub or not, but if there is not a hub  
18                  and if it's not convenient, yes, it is a  
19                  barrier, for sure.

20          MS. ROSE: Okay. And I'm wondering now -- Madam  
21                  Registrar, could I please request that we bring  
22                  up document 2718. If we could turn to page 56,  
23                  please. If you could zoom in a little bit on  
24                  this first paragraph. Just a little more,  
25                  please.

1                   Sorry, Madam Registrar, could you just zoom  
2                   in on this first paragraph. I'd just like to  
3                   discuss the text of this paragraph with the  
4                   witness. Thank you.

5           Q       So, Ms. Hyde, do you see there it says:

6                   "FINTRAC has produced an operational brief  
7                   on indicators of money laundering in  
8                   financial transactions related to real  
9                   estate that outlines a set of indicators."

10          A       (DH) I'm reading this, yes. Yeah.

11          Q       And you see at the bottom the two last sentences  
12                  say:

13                  "This can assist public and private sector  
14                  actors in distinguishing between ML --"

15                  Which I take to be money laundering.

16                  "-- relevant and non-ML relevant Chinese  
17                  inflows and real estate-related activity.

18                  Further guidance is necessary for

19                  reporting entities to assist them in

20                  managing their risk related to

21                  transactions emanated from China and Hong  
22                  Kong."

23                  You see that?

24          A       (DH) I do.

25          Q       Were you aware of this document before it was

1 brought to your attention by the commission?

2 A (DH) No, I was not.

3 Q Do you think or is your sense that the industry  
4 is aware of these operational briefs?

5 A (DH) I cannot say. All I can say is that I'm  
6 not aware.

7 Q Do you have a view on who is best placed to be  
8 distributing this type of information, these  
9 types of indicators and operational briefs?

10 A (DH) Outside of FINTRAC, you mean?

11 Q You know, one possibility is for it to be  
12 distributed by FINTRAC on their website, another  
13 might be through email correspondence, another  
14 might be for it to go through council, through  
15 BCREA, another organizing entity. I'm just  
16 wondering if you have any suggestions or  
17 recommendations on how best to ensure that real  
18 estate agents are apprised of the relevant  
19 information.

20 A (DH) Well, I think that FINTRAC has to be  
21 responsible for distributing this information.  
22 How they do it I think should be a targeted  
23 approach to the managing broker/compliance  
24 officers. There may be a possibility for  
25 further engagement by a provincial regulator or

1 a provincial hub such as you've mentioned, but  
2 certainly you need a pretty direct line of  
3 communication from FINTRAC who gets this  
4 information and sent in a timely way to the  
5 people that need to be aware of it. So there's  
6 a number of ways, but I don't think -- you know,  
7 putting it on a website is fine but I'd want to  
8 get -- if I were a compliance officer I'd want  
9 to get that stuff in my "in" basket.

10 MS. ROSE: Okay. And, Madam Registrar, could we  
11 please have document CAN-001708. I'm sorry, I  
12 just realized I've neglected to enter the past  
13 document as an exhibit. I apologize.

14 Mr. Commissioner, could we please have  
15 document 0002718 entered as an exhibit.

16 THE COMMISSIONER: Very well.

17 THE REGISTRAR: Yes. Exhibit 628, Mr. Commissioner.

18 **EXHIBIT 628: FINTRAC memorandum on issue:**  
19 **Money Laundering and Real Estate in British**  
20 **Colombia: Banking and Private Lenders -**  
21 **December 13, 2018 - redacted**

22 MS. ROSE: Moving on to CAN-001708. Could we please  
23 turn to page 32. And could we zoom in on this  
24 bottom paragraph, please, Madam Registrar.

25 Q So, Ms. Hyde, there is a statement here "FINTRAC

1                   also plans to explore new and innovative  
2                   communication tools" under the second priority,  
3                   which is to work with the BC government, as you  
4                   see above. So under the second priority:

5                                 "To better educate the real estate sector  
6                                 on their obligations and on ML/TF trends."

7                   Do you see that there?

8           A       (DH) I do, yes.

9           Q       And so do you have any suggestions on what new  
10                   communication tools would be useful to real  
11                   estate agents in this context?

12          A       (DH) Well, I have a number of thoughts as to how  
13                   FINTRAC could better communicate with the  
14                   sector, including some innovative tools. So  
15                   yes, I could share some of those thoughts with  
16                   you.

17                                 Right now the suspicious transaction report  
18                   is an eight-page document. Realtors tend to be  
19                   pretty tech savvy and, you know, an app with  
20                   some drop-down menus I think might go over a lot  
21                   better and encourage compliance. You know, I  
22                   will say that FINTRAC has done a lot of good  
23                   work. I've been part of a bank -- a financial  
24                   institution for -- well, several -- over a  
25                   decade, and they communicate very well with the



1 financial institution sector that has, you know,  
2 the compliance departments and what have you.

3 But I will say that they've had -- there's  
4 been an issue reaching the small business sector  
5 where you have 24 -- the average of 24 realtors  
6 in a given brokerage. The median I think is  
7 four, four realtors in a given brokerage. So  
8 these are small business people. They tend to  
9 want very concrete, real language as opposed to  
10 bureaucratic language. They tend to want very  
11 clear direction as opposed to direction they  
12 have to interpret from time to time.

13 So I mean, as an overarching direction for  
14 FINTRAC I would say, look at real world  
15 examples, look at clear plain language. I know  
16 they've made starts on that. But more plain  
17 language, less ambiguous language would be  
18 helpful. We talked about feedback. It should  
19 be timely and targeted in terms of where things  
20 have gone astray.

21 Basically I think to separate out the  
22 strands of administrative deficiencies from more  
23 substantive deficiencies would also go a long  
24 way to helping realtors understand that, you  
25 know, maybe the order of magnitude of not

1           filling a form out right versus actually missing  
2           a really big red flag is too different orders of  
3           magnitude.

4                     And like, again, as I say, user friendly  
5           tools. These are people that are they are  
6           very -- they're salespeople. They're on the go.  
7           They are pressed for time. They like fast, user  
8           friendly tools. And I think another suggestion  
9           I'd give FINTRAC is we were hard-pressed to come  
10          up with one case study for mastering compliance  
11          that showed where the results of the realtor  
12          making the suspicious transaction report turned  
13          into a situation where money laundering was  
14          frustrated.

15                    And so, like, to share the success stories,  
16          I think. You know, albeit you're going to have  
17          to wipe out names and you're going to have to  
18          take care in terms of how you share those or how  
19          FINTRAC shares those, but they're not being  
20          shared, so there's no line of sight that the  
21          realtor has into the efficacy or effectiveness  
22          of what they're doing and how that is making a  
23          difference.

24                    So those in general would be my  
25          recommendations to FINTRAC in terms of better

1                   attunement to the real estate sector.

2                   Q     Is FINTRAC currently doing enough to educate and  
3                   reach out to the members of the BC real estate  
4                   industry?

5                   A     (DH) Well, I say we've started that process with  
6                   mastering compliance. They have made some, as I  
7                   say, cameo appearances in the first iteration of  
8                   the course and they've committed to going  
9                   forward with us in the second iteration. So  
10                  it's positive, but there's a lot more to do.

11                 MS. ROSE: Okay. Mr. Commissioner, I would hope to  
12                  have this entered as the next exhibit.

13                 THE COMMISSIONER: Yes. Very well.

14                 THE REGISTRAR: Exhibit 629, Mr. Commissioner.

15                 THE COMMISSIONER: Thank you.

16                                 **EXHIBIT 629: FINTRAC Report to the Minister of**  
17                                 **Finance on Compliance and Related Activities -**  
18                                 **September 30, 2019**

19                 MS. ROSE: And, Madam Registrar, could we please have  
20                  CAN-1168. And if we could turn to page 10. If  
21                  we could scroll up a little please.

22                 Q     In the middle of this second paragraph,  
23                         Ms. Hyde, do you see the statement "the most  
24                         common deficiencies across all sectors"? And I  
25                         should back up.

1 MS. ROSE: Madam Registrar, can we -- sorry. Madam  
2 Registrar, could we turn to the first page of  
3 this document. I haven't identified what this  
4 document is.

5 Q So, Ms. Hyde, do you see that this is a FINTRAC  
6 report to the Minister of Finance on compliance  
7 and related activities?

8 A (DH) September 30, 2017?

9 MS. ROSE: Scroll down here a little, Madam  
10 Registrar. Yeah, that's right. So now could we  
11 turn to page 10, please.

12 Q In the middle of this paragraph, the second  
13 paragraph on this page, Ms. Hyde, do you see the  
14 statement:

15 "The most common deficiencies --"

16 A (DH) Right.

17 Q "-- across all sectors and all report  
18 types included quality issues with some of  
19 the reporting fields."

20 A (DH) Yes.

21 Q And are you familiar with this issue of  
22 insufficient information being entered in the  
23 reporting fields?

24 A (DH) Well, I've seen FINTRAC reports that show  
25 deficiencies either partial or complete in some

1                   of these areas, yes. Again, this is four years  
2                   ago or three and a half years ago. Yeah.

3           Q       And is the need to provide these details -- so  
4                   occupation, address, the type of document used  
5                   to identify the person, is the need to obtain  
6                   this information understood and accepted by  
7                   industry?

8           A       (DH) Yes, I believe it is.

9           Q       Is there -- and I think we touched on this a  
10                  little earlier, but is there any concern from  
11                  industry about obtaining this type of  
12                  information from the client?

13          A       (DH) I think the only concern might be to  
14                  balance the fiduciary duties to the client with  
15                  the privacy issues as well as the FINTRAC  
16                  obligations. So those I think would be  
17                  concerns. It is a sales -- it's a sales job and  
18                  it's a relationship job, so you want to be aware  
19                  of the boundaries as you're getting to know your  
20                  client.

21          Q       Would it be fair to say that there can be a  
22                  reluctance to ask questions that are perceived  
23                  to be overly invasive?

24          A       (DH) I would say, yes.

25          Q       And do you have any views on whether real estate

1 agents ought to be required to make these  
2 inquiries or how they could be assisted in  
3 making inquiries in order to comply with their  
4 FINTRAC obligations?

5 A (DH) I think I've mentioned it before, but I  
6 think it's a risk-based approach. If things  
7 from the story that you are gleaning from the  
8 client begins to fall apart and fray at the  
9 edges, then that's the signal that you may have  
10 to go to deeper and ask more questions. So I  
11 think -- and, you know, possibly walk away from  
12 the situation. But I think it's very  
13 situational and risk based and realtors should  
14 have the training to recognize when they have to  
15 ask these invasive questions and when they do  
16 not.

17 MS. ROSE: Okay. And I'd ask that this be entered as  
18 the next exhibit, Mr. Commissioner.

19 THE COMMISSIONER: Very well.

20 THE REGISTRAR: Exhibit 630, Mr. Commissioner.

21 **EXHIBIT 630: FINTRAC Report to the Minister of**  
22 **Finance on Compliance and Related Activities -**  
23 **September 30, 2017**

24 MS. ROSE:

25 Q Ms. Hyde, you understand that real estate -- or



1 geographic area. You'd look at the crime rate  
2 in that area, demographics of clientele. So  
3 that's part and parcel of the managing  
4 broker/compliance officer obligation which can  
5 be undertaken also by the realtor in terms of  
6 their assessment of their clients.

7 Q And so the managing broker or compliance officer  
8 sets this program for risk assessment and then  
9 the tenet of that program are carried out by the  
10 real estate agents and the managing broker on a  
11 day-to-day basis?

12 A (DH) They are, yeah. And that's part and parcel  
13 of our mastering compliance program. It's one  
14 of the modules. Totally taken up with the risk  
15 assessment process, which is a biennial process.

16 Q And are you aware that FINTRAC has found  
17 significant deficiencies among the real estate  
18 industry in this area?

19 A (DH) Well, that was one of the reasons we  
20 included that as a separate module in mastering  
21 compliance. We know that it needs work. We  
22 also know that the two-year effectiveness review  
23 needs work. So those are two areas that I think  
24 need more drilling down in future iterations of  
25 the program.





1 obligation."

2 Do you see that there?

3 A (DH) I do, yes.

4 Q Do you have any suggestions for how compliance  
5 in this area could be improved?

6 A (DH) Well, I think it goes to our -- I will  
7 reference the module. It goes to our mastering  
8 compliance program where we recognized it as a  
9 vulnerability in terms of -- yeah, that is  
10 module 5 of mastering compliance. The whole  
11 module is spent on risk assessment in terms of  
12 taking a risk-based approach and having a  
13 control environment with respect to one's  
14 clients.

15 So in answer to your question, yes, we saw  
16 it as a deficiency, we saw it as a weakness and  
17 we are attempting to deal with it through  
18 education.

19 Q Do you have a sense of why this is a particular  
20 deficiency?

21 A (DH) Again risk assessment and a risk view of  
22 the world is a bit more of a larger company kind  
23 of thing. We did this a lot and do it in  
24 financial institutions. I'm wondering whether  
25 it's a practice that's sufficiently embedded yet

1                   in small business, small enterprise and, you  
2                   know, a sales environment.

3                   Q     And do you have a view on which actor in the  
4                   industry is best placed to be providing more  
5                   assistance in this area? Is it something that  
6                   should be coming from the BCREA, from the  
7                   council, from FINTRAC? Do you have a view on  
8                   who might be able to provide greater assistance  
9                   to support real estate agents?

10                  A     (DH) I believe it has to start with the  
11                  regulator, whether FINTRAC and/or if they  
12                  enlisted assistance of the provincial regulator,  
13                  and the critical person on the ground is the  
14                  compliance officer/managing broker.

15                  MS. ROSE: I think we can take this document down,  
16                  Madam Registrar. And I'd like to pull up  
17                  exhibit 618.

18                  Q     So, Ms. Hyde, you mentioned the critical person  
19                  is the managing broker or the compliance  
20                  officer, which is often the same individual for  
21                  a brokerage.

22                             If we turn to page 31 of this document,  
23                             please. Yes, right here.

24                             So, Ms. Hyde, are you familiar with the IAG  
25                             report?

1           A       (DH) I read it a few years ago. I haven't -- I  
2                    didn't read it in preparation for this hearing.

3           Q       Okay. Are you familiar with its comments on  
4                    challenges facing managing brokers in the  
5                    industry today?

6           A       (DH) I'd have to be reminded.

7           Q       Okay. Maybe just take a moment to read those  
8                    two paragraphs and let me know when you've  
9                    concluded.

10          A       (DH) Okay, I have read the two.

11          Q       So, Ms. Hyde, do you have any response to those  
12                    comments?

13          A       (DH) Well, I see this would seem to indicate  
14                    there's been an evolution in the business model  
15                    over the past few years from a managing broker  
16                    being in charge as it were to a managing broker  
17                    not quite being in charge because they've got  
18                    independent contractors who are concerned with  
19                    sales and that perhaps the power of the managing  
20                    broker has waned. That was my takeaway from  
21                    those two paragraphs.

22          Q       And do you agree with that assessment?

23          A       (DH) You know, it's hard for me to make a call  
24                    on this. I've been involved with the industry  
25                    since January 2018. I will say that our efforts

1                   at bolstering and buttressing the managing  
2                   broker is something that we take pretty  
3                   seriously insofar as we want an industry that is  
4                   driven by good policies, good practices, good  
5                   risk management and that most businesses would  
6                   not leave it up to the salespeople to ensure  
7                   that that's in place. Most businesses would  
8                   have a controller, a supervisor, a manager,  
9                   which ensures that these things happen according  
10                  to policies and procedures and who is looking  
11                  out for the risk aspects of managing the  
12                  business.

13                         So I would say that we are focused on  
14                   strengthening the role of the managing  
15                   broker/compliance officer in that equation  
16                   because we believe we have to -- if there is a  
17                   delta, if there is a change or a difference  
18                   between the power of a realtor and the power of  
19                   the managing broker we want to close that delta  
20                   by way of good training for the managing broker  
21                   to make sure that they are -- you know, their  
22                   concerns, their obligations they have to  
23                   FINTRAC, their ethical concerns, that that  
24                   imbues the brokerage. That that takes on --  
25                   that the brand of the brokerage is very much

1                   that brand in terms of the care and concern that  
2                   they would have and competence.

3           Q       And do you think that this potential delta in  
4                   the power of the managing broker as compared to  
5                   the real estate agent is likely to have an  
6                   impact on the compliance with *Proceeds of Crime*  
7                   *(Money Laundering) and Terrorist Financing Act*  
8                   obligations?

9           A       (DH) It may have. It may have. But I think  
10                   it's certainly our position that we want to do  
11                   everything to strengthen that managing broker  
12                   and compliance officer role.

13           MS. ROSE: Mr. Commissioner, I would propose a  
14                   five-minute break. I'd like to confer with my  
15                   friends to determine how much time is necessary  
16                   for cross-examination today.

17           THE COMMISSIONER: All right. That's fine. We'll  
18                   take five minutes.

19           MS. ROSE: Thank you.

20           THE REGISTRAR: This hearing is stood down for  
21                   five minutes until 12:58 p.m. Please mute your  
22                   mic and turn off your video.

23                   **(WITNESSES STOOD DOWN)**

24                   **(PROCEEDINGS ADJOURNED AT 12:53 P.M.)**

25                   **(PROCEEDINGS RECONVENED AT 1:00 P.M.)**

1 THE REGISTRAR: Thank you for waiting. The hearing  
2 is now resumed. Mr. Commissioner.

3 THE COMMISSIONER: Yes, thank you, Madam Registrar.

4 **DARLENE HYDE, a witness**  
5 **for the commission,**  
6 **recalled.**

7 **BRANDON OGMUNDSON, a**  
8 **witness for the**  
9 **commission, recalled.**

10 THE COMMISSIONER: Yes, Ms. Rose.

11 MS. ROSE: Mr. Commissioner, in consulting with my  
12 colleagues, and I've been a little bit slower  
13 than anticipated today, I wonder if I might ask  
14 your indulgence to sit a bit late today. I  
15 would propose somewhere in the range of 2:00 or  
16 2:30, if that's acceptable. I have consulted  
17 with the participants and I have not heard any  
18 concern with this proposal, but I'm in your  
19 hands.

20 THE COMMISSIONER: No, that's fine. We'll certainly  
21 sit until 2:00 or 2:30, whatever it takes. We  
22 might want to have another break at some point  
23 just in case it becomes necessary, but let's  
24 carry on and see where we get to.

25 MS. ROSE: Yes. Thank you, Mr. Commissioner, for the

1 reminder. I might suggest we take a bit more of  
2 an extended break for the sake of the court  
3 reporters in between Ms. Hyde and  
4 Mr. Ogmundson's evidence, if that's acceptable.

5 THE COMMISSIONER: Yes, that sounds fine. Thank you.

6 **EXAMINATION BY MS. ROSE (continuing):**

7 Q Ms. Hyde, I wanted to ask you a few questions on  
8 the topic of suspicious transaction reporting.  
9 I know we've spoken about that a bit so far, but  
10 I want to ask a few questions specifically about  
11 that topic. So, firstly, do you agree that real  
12 estate is vulnerable to money laundering?

13 A (DH) I do because it's a large asset. It  
14 represents large assets.

15 Q And that professionals working within the real  
16 estate sector are in a position to be a key  
17 player in detection of potential money  
18 laundering schemes?

19 A (DH) Yes. Agreed.

20 Q Is your sense that the industry is aware of the  
21 risk for money laundering that is presented by  
22 real estate?

23 A (DH) I believe it's become increasingly aware,  
24 and I do think -- again, going back to a point I  
25 made earlier. The nine-week UBC Sauder School



1           program does not equip realtors to be sort of  
2           investigators. It's all about the fiduciary  
3           duty and the sales process. So I do think that  
4           education, whether by the council or whether by  
5           us, is going to help that awareness, help that  
6           competence and debunk some of the myths out  
7           there in terms of, you know, issues around  
8           confidentiality of this and the fact that they  
9           don't have to abandon their client. They don't  
10          have to fear for repercussions because of the  
11          confidentiality of the suspicious transaction  
12          report.

13                    I have to say it is a dilemma for us. We  
14                    recognize that they are low numbers, and Peter  
15                    German made that report in his second report.  
16                    There were low numbers. Having said that, we're  
17                    not aware of many fines, prosecutions or other  
18                    sanctions against realtors who have run afoul of  
19                    money laundering. We have one press clipping  
20                    and I understand there's other investigations,  
21                    but by and large there hadn't been a lot of  
22                    activity on that front either.

23                    So I will say that there are -- we talked  
24                    about the holes in the system. We've talked  
25                    about the holes in the conveyancing part of the

1                   equation. The blind spots. We've talked about  
2                   the blind spots in unregulated lenders, add to  
3                   that, you know, private sales, and it is  
4                   possible for money launderers to skirt the  
5                   FINTRAC obligation chain. That is certainly a  
6                   possibility. And, you know, they're smart  
7                   people. They can perhaps, you know, adopt a  
8                   stance, if they're dealing with a realtor, to  
9                   not present a story that triggers suspicion.

10                   But having said that, I think it is -- it's  
11                   work in progress. It's certainly something that  
12                   more attention has to be paid to. The  
13                   reasonable grounds to suspect is something --  
14                   again it's an abstract concept and I think  
15                   giving more flesh to that reasonable grounds to  
16                   suspect is good thinking in terms of helping the  
17                   realtor identify those specific red flags that  
18                   are going to trigger a suspicious transaction  
19                   report.

20                   So I will say my thoughts are this. This is  
21                   an area for further collaboration between the  
22                   sector and between FINTRAC and any other agency  
23                   that gets involved in order that we get the best  
24                   solutions that money laundering is detected and  
25                   that realtors fulfill and managing brokers

1                   fulfill their compliance obligations.

2                   Q     And you've touched on this a bit in your answer,  
3                   but could you -- are you able to point to  
4                   reasons why the suspicious transaction reporting  
5                   of real estate agents doesn't quite match the  
6                   levels that FINTRAC expects?

7                   A     (DH) Well, I've tried to kind of refer to a few  
8                   things. I don't think there is one root cause.  
9                   I think that it's been an emerging issue over  
10                  the last few years. Since I became part of  
11                  BCREA it's become a real front and centre issue  
12                  and with that front and centre issue came more  
13                  attention on it and more communication to  
14                  realtors that that is expected, that these kinds  
15                  of things are expected.

16                  So I think, again, it's a story that is a  
17                  work in progress that more work has to be done  
18                  around communication and education to realtors  
19                  along with the other things that I've added.  
20                  That education is going to help. That just more  
21                  focus on this area will assist.

22                  Q     Could you just briefly describe how a real  
23                  estate agent -- an agent, not a managing  
24                  broker -- how an agent would determine when to  
25                  report a transaction?

1           A       (DH) You know, you are getting to a level that  
2                    I'm not really all that familiar with. I will  
3                    say that the realtors I know, they're talking to  
4                    their clients and basically there's a story that  
5                    hangs together. There's narrative that hangs  
6                    together about buying a property, selling a  
7                    property, you know, stage in life, the kind of  
8                    thing that's going on in that person's life.

9                    And I think that if I'm a realtor and I  
10                    maybe don't know this person and they are  
11                    evasive or they trigger any of those red flags  
12                    that have been published, those are the kinds of  
13                    things that would give me pause and that --  
14                    where I would contact my compliance officer and  
15                    say, listen, I've got this situation; this  
16                    doesn't add up, or this is worrying me, or this  
17                    is a concern; what do you suggest? And I would  
18                    think the compliance officer being accountable  
19                    and responsible for this would give them good  
20                    guidance. So that's kind of how I see it.

21           Q       And we've sort of talked about the indicators  
22                    from FINTRAC for a suspicious transaction in  
23                    real estate and you've made some suggestions for  
24                    how those indicators could be improved. Do you  
25                    think that those indicators and the other

1 operational guidance that's issued on suspicious  
2 transaction in real estate transactions -- are  
3 those -- is that guidance -- are those  
4 indicators sufficient for real estate agents to  
5 be able to know when to report?

6 A (DH) Well, the ones I've seen by and large are.  
7 Maybe there are others that needed to be added,  
8 but I think it's a great start in terms of the  
9 list of red flags and the list of situations  
10 that should give you pause to ask a question or  
11 two. So yeah, I think those are certainly  
12 areas.

13 Q And the process for reporting within a brokerage  
14 is that a real estate agent, if one of those red  
15 flags is triggered as you mentioned, would  
16 contact their compliance officer. Is that  
17 right?

18 A (DH) That's right.

19 Q And the report to FINTRAC, the suspicious  
20 transaction report would be issued by the  
21 compliance officer in that case?

22 A (DH) That's my understanding. That they sign  
23 off on all STRs, yes.

24 Q Do you see -- some of the structural changes in  
25 the industry that perhaps, as you said, have a

1 bit of a delta in the power between the managing  
2 broker and an agent, do you see that that  
3 creates a power imbalance that might impede  
4 suspicious transaction reporting?

5 A (DH) Well, we've talked about that a little bit  
6 before and I'll go back to saying that it may --  
7 there may be an unintended consequence there,  
8 but our view is that we need to strengthen the  
9 role of the managing broker/compliance officer  
10 with education, with tools. As well, I mean,  
11 it's not just education. There's consequences  
12 too in terms of if one doesn't live up to one's  
13 obligations and there is a finding, so there are  
14 consequences for people who don't live up to  
15 their regulatory and statutory requirements.

16 That said, I do think that this industry is  
17 made up of some very solid managing brokers and  
18 compliance officers and these people need to be  
19 supported.

20 Q And do you think that the -- first of all, are  
21 you familiar with the way in which managing  
22 brokers are compensated in a typical brokerage?

23 A (DH) Yes. At the high level, yes.

24 Q And could you describe the compensation  
25 structure for managing broker as compared to the

1 compensation structure for real estate agents?

2 A (DH) A real estate agent is paid on commission  
3 by and large. A managing broker is generally  
4 given a salary or some kind of stipend and often  
5 times augments that stipend with their own sales  
6 activity.

7 Q And in the context of a large busy urban market  
8 such as the Lower Mainland and with a busy  
9 brokerage, typically the salary would come from  
10 the -- for the managing broker predominantly  
11 comes from the commissions earned by the real  
12 estate agents that they supervise?

13 A (DH) That's correct.

14 Q And in that situation I've described the salary  
15 of the managing broker is typically  
16 significantly less than that of the real estate  
17 agents?

18 A (DH) I guess as a general rule that would be  
19 unless they augment with their own sales  
20 activity.

21 Q Okay. Do you think that this creates a power  
22 imbalance between agents and brokers that might  
23 impact suspicious transaction reporting?

24 A (DH) You've asked that question before. It  
25 could. It could. That said I do think a robust

1           real estate sector has to be constructed or made  
2           of strong managers. So that might be an  
3           untoward situation but our view is that we need  
4           to strengthen those -- the roles of those  
5           managing brokers notwithstanding what their  
6           salary might be in comparison to a realtor's  
7           income.

8           Q     Okay. Okay. And with respect to the Maloney  
9           report recommendation that responsibility for  
10          reporting suspicion transactions be transferred  
11          from a managing broker or a compliance officer  
12          to the individual real estate agent, do you have  
13          any views on that recommendation?

14          A     (DH) I believe it's a both/and. I think it's  
15          two layers of protection. Yes, the realtor  
16          needs to be -- the realtor is in the best  
17          position to know that client. The compliance  
18          officer doesn't meet those clients directly. So  
19          the realtor has responsibilities around knowing  
20          their client and being assured that this is a  
21          right kind of transaction, this is -- and being  
22          alert to suspicious transactions or being alert  
23          to red flags that would trigger those suspicious  
24          transaction reports.

25                           But the compliance officer is responsible



1           for -- the managing broker is responsible for  
2           the processes and practices and systems of that  
3           brokerage. So it is a fundamental management  
4           responsibility that these people cannot absolve  
5           themselves of responsibility for money  
6           laundering or any of these money laundering  
7           responsibilities. It confounds me how that  
8           could be.

9           MS. ROSE: Okay. Thank you, Mr. Commissioner, these  
10          are all my questions for this witness. I  
11          might -- I've actually managed to proceed to the  
12          end of my questions in a rather more expeditious  
13          way than I anticipated. I wonder if we might  
14          turn to asking a few questions of Mr. Ogmundson  
15          and then take a break perhaps either in the  
16          middle of his testimony or after his testimony  
17          and before cross.

18          THE COMMISSIONER: That's fine. How long do you  
19          expect to be with Mr. Ogmundson?

20          MS. ROSE: I expect to be about 20, 25 minutes at the  
21          most, I would think.

22          THE COMMISSIONER: All right. That's fine. Let's  
23          carry on, then, and we'll take a break once he's  
24          concluded from your perspective. Thank you.

25          MS. ROSE: Thank you, Mr. Commissioner.



1 mortgages. That's about 60 percent of mortgages  
2 in the Canadian market. A bit more -- probably  
3 a bit more in places like Vancouver, and it  
4 meant that you had needed to -- when you go to  
5 qualify for a mortgage you qualified at the  
6 higher of your contract rate plus 200 basis  
7 points or 2 percent or the posted five-year  
8 rate, that sort of average by the Bank of  
9 Canada.

10 What that essentially meant was that if you  
11 were in the market New Year's Eve 2017, you woke  
12 up New Year's Day 2018 with about 25 percent of  
13 your purchasing power essentially evaporated.

14 Q And what are the sort of bases for the removal  
15 of that? What are the sort of criteria that you  
16 would meet in order to have that 20 percent of  
17 your purchasing power removed?

18 A (BO) Well, it's just the impact of that test  
19 itself. So prior to the B-20 being implemented,  
20 you know, January 1st, 2018, you would be able  
21 to qualify as an uninsured borrower at your  
22 contract rate. So if your contract rate was  
23 3 percent, you know, December 31st, 2017, the  
24 next day your qualifying rate would be that plus  
25 2 points, so you would have to qualify at

1                   5 percent.

2           Q     And was the basis for that change the rationale  
3                   of if faced with a sudden change to their  
4                   circumstances such as income loss, increased  
5                   interest rates or the conditional expenses, the  
6                   borrower might not be able to repay the loan?

7           A     (BO) That's right. It's essentially a risk  
8                   buffer, you know, in case there was a large  
9                   increase in interest rates or some other change  
10                  that those borrowers would still sort of be  
11                  within that buffer and still be able to make  
12                  their mortgage payments.

13          Q     And what impact did that have on the number of  
14                  mortgages issued in 2018 as compared to 2017?

15          A     (BO) Well, we saw a pretty broad-based decline  
16                  all across Canada. I don't know what the exact  
17                  number is in the reduction of sort of mortgages,  
18                  but we certainly saw an immediate impact in home  
19                  sales, not just in BC but across Canada.

20          Q     And could you describe the work that BCREA did  
21                  to understand the impact of the B-20 stress  
22                  test.

23          A     (BO) Of course. So one of the real problems  
24                  with -- or one of the complications with  
25                  quantifying the impact of the stress test was

1           that there were a lot of different factors all  
2           kind of happening at the same time. So the back  
3           half of 2017 into about 2019 we had sharply  
4           rising five-year fixed mortgage rates, we had an  
5           economy that was -- at least employment growth  
6           that was slowing a little bit in BC and then we  
7           also had an array of provincial measures that  
8           were announced in the budget in February 2018,  
9           including the speculation and vacancy tax and an  
10          increase in the expansion of the foreign buyer's  
11          tax.

12                        We had all of these different factors. So  
13          when we look at where sales sort of ended up in  
14          2018 versus the previous year, you know, we  
15          tried to disentangle all of those different  
16          factors. So we wrote a report that attempted to  
17          do that, essentially estimating what a baseline  
18          would have been for home sales in BC if we  
19          didn't have B-20. So just factoring things like  
20          rising interest rates and slow down in  
21          employment growth. So we kind of get a  
22          baseline. The difference between that baseline  
23          and actual sales is going -- you know, B-20 is  
24          going to be in there somewhere but so are other  
25          factors like provincial measures.

1                   The way we attempted to kind of disentangle  
2                   all that was basically attacking the problem  
3                   from different angles sort of using different  
4                   variables to try and measure B-20, to really  
5                   isolate B-20. And what we found was that that  
6                   policy probably had explained about 30 percent  
7                   or so of the total decline in home sales in  
8                   2018. That plus interest rates challenging  
9                   affordability, slowing economy, probably  
10                  explained about 85 percent, I think, on average  
11                  of the decline in home sales in 2018.

12                  Q     And the remaining 15 percent, you know, if that  
13                        reaches 85 percent, the remaining 15 percent,  
14                        what did you find with respect to that?

15                  A     (BO) Any time you estimate that kind of an  
16                        econometric model you can only include so many  
17                        variables. You're never going to be able to  
18                        sort of perfectly explain something  
19                        statistically. So within that 15 percent is  
20                        going to be variables that we omitted because  
21                        they're hard to measure. There's no -- you  
22                        know, quantitatively. So things like foreign  
23                        investment or some other issues that are hard to  
24                        kind of get at the data. There's also just  
25                        going to be statistical noise. You're never

1 going to explain a hundred percent of an issue.

2 So within that 15 percent, though, is one of  
3 the things that we really couldn't measure at  
4 the time is going to be the effect of things  
5 like the budget measures put in place in 2018.

6 MS. ROSE: Right. And, Mr. Commissioner, this work,  
7 this study that was done by BCREA is available  
8 in the evidence at exhibit 602, which is the  
9 overview report on Lower Mainland housing  
10 prices. And that is at appendix L.

11 THE COMMISSIONER: Thank you.

12 MS. ROSE:

13 Q So, Mr. Ogmundson, you also performed a study on  
14 the speculation and vacancy tax.

15 A I did.

16 Q Could you describe that.

17 A (BO) Yeah. So that was a different kind of  
18 approach. We treated the speculation and  
19 vacancy tax almost like a natural experiment or  
20 something you might find in like a  
21 pharmaceutical study where we have a control  
22 group and then a test group, kind of exploiting  
23 the fact that the speculation and vacancy tax  
24 applies in one jurisdiction and not the other,  
25 and often those jurisdictions border each other.

1           So we have very similar factors influencing  
2           those two markets. So, say, Kelowna and  
3           Penticton where Kelowna has a speculation and  
4           vacancy tax, Penticton doesn't. And just trying  
5           to find -- trying to exploit post kind of 2018  
6           trends in those markets, but looking at every  
7           market across BC and saying, how is the  
8           experience in 2018 for speculation and vacancy  
9           tax regions different than regions that didn't  
10          have the tax.

11                   And what we found was regions with the  
12           speculation and vacancy tax saw home sales  
13           decline by 12 percent more than regions that  
14           didn't have the tax. And price growth was about  
15           5 percent slower. So, for example, I think if  
16           we aggregate them into regions over 2018 to 2019  
17           when we did the study post-tax, regions that  
18           were subject to the speculation and vacancy tax  
19           saw sales fall about 30 percent or so and  
20           non-spec tax regions saw sales fall about  
21           20 percent.

22                   So both were still feeling the effects of  
23           other things like rising rates and B-20, but  
24           there did seem to be an extra kind of  
25           incremental impact to the speculation and



1                   vacancy tax.

2                   I note, though, when we took out Metro  
3                   Vancouver from those calculations, the  
4                   statistical significance kind of went away and  
5                   the overall impact went away. So it seemed like  
6                   largely a Vancouver issue and a lot of the  
7                   impact seemed to be temporary. So by the end of  
8                   2019 we were already seeing home sales and  
9                   prices across the province start to pick up  
10                  again.

11                 MS. ROSE: And for the Commissioner's benefit, this  
12                   study is at appendix M of the overview report on  
13                   Lower Mainland housing prices which is at  
14                   exhibit 602.

15                 Q    And, Mr. Ogmundson, how would you read the work  
16                   you've done on the speculation and vacancy tax  
17                   in combination with the work on the B-20 stress  
18                   test?

19                 A    (BO) I think they're somewhat, you know,  
20                   complementary. I think that we still find that  
21                   the dominant impact or the dominant reason why  
22                   home sales experienced real periods of weakness  
23                   in 2018 and '19 was largely due to sort of the  
24                   compound impact of rising interest rates and  
25                   B-20. Interest rates had risen about a full

1 point between the end of 2017, the beginning of  
2 2019. That plus B-20 meant that you now had to  
3 qualify actually at about 300 basis points above  
4 what you would have in 2017. So that has a  
5 pretty significant impact on markets.

6 That said, there still -- we did find that  
7 there was a negative impact from the SVT, you  
8 know, probably in that 15 percent kind of range  
9 that we were -- you know, give or take.

10 Q Okay. And I wanted to turn now to your work on  
11 the foreign buyer tax and foreign investment  
12 more generally. Could you explain the work that  
13 you've done on estimating the impact of the  
14 foreign buyer tax.

15 A (BO) Sure. So we never did any real formal,  
16 like, estimating the impact of the foreign  
17 buyer's tax, although we certainly did a lot of  
18 work around it. One of the things that we had  
19 done was really at the time of the tax just try  
20 and calculate or estimate, forecast what things  
21 would have -- what the market would have looked  
22 like without that tax. So at the time in 2016  
23 home sales and prices had already started to  
24 kind of decelerate before the tax was  
25 implemented. I think average prices peaked

1                   around February. Other measures of prices  
2                   peaked later but they have a bit of a lag.

3                   And so we had a market that was kind of  
4                   cooling already and the foreign buyer's tax sort  
5                   of tipped that market a little bit more. The  
6                   end impact, I think what it did was sort of  
7                   arrest a lot of the real acceleration that was  
8                   happening, especially in the growth of home  
9                   prices. But when we look at the level of home  
10                  prices, which of course is far more important  
11                  for affordability, there was about an eight --  
12                  6- to 8-month effect of the foreign buyer's tax.  
13                  Prices plateaued, came down a little bit and  
14                  then by, you know, really January 2017 had  
15                  started to really take off again to the point  
16                  that I think by -- you know, from January '17 to  
17                  midway through 2018 home prices had gone up  
18                  another \$100,000 in Vancouver. So post-foreign  
19                  buyer's tax there was a brief dip which was then  
20                  sort of more than recovered post-2016.

21                  Q    And I understand that you prepared some slides  
22                      on the topic of the foreign buyer tax?

23                  A    (BO) We did. I think that was for a briefing,  
24                      essentially. Just sort of demonstrating where  
25                      we thought the market would have been even

1           without the tax and I think, if I'm remembering  
2           correctly, where sort of sales ended up. They  
3           basically came back to that baseline and showing  
4           perhaps, if I'm remembering the right  
5           presentation, that the level of foreign  
6           investment as a share of transactions has been  
7           slowly declining especially, after 2017. Kind  
8           of, I think, fall 2017 where there was some  
9           enhanced capital controls put in place,  
10          especially in China that really restricted the  
11          outflows of capital from China. One of the main  
12          targets being restricting the outflows of  
13          capital for the purpose of buying real estate.

14                        So even before the enhancement and increase  
15          in the foreign buyer's tax we were seeing -- in  
16          2018 we had seen foreign investment steadily  
17          decline to the point now we have borders  
18          essentially closed and foreign investment or the  
19          share of foreign involvement in residential real  
20          estate is I think down to about half a percent  
21          by the end of 2020.

22          MS. ROSE: And for the Commissioner's benefit the  
23          presentation prepared by BCREA is available at  
24          appendix N of the -- exhibit 602, the overview  
25          report on Lower Mainland housing prices.

1           Q     Mr. Ogmundson, could you comment on your view on  
2                    the role of foreign investment in BC real estate  
3                    more generally.

4           A     (BO) Yeah, of course. I mean, it's certainly a  
5                    factor and I think it's worth kind of revisiting  
6                    2016 when I think that issue was really kind of  
7                    inflamed. If you look at what was happening in  
8                    2016, it was sort of a perfect storm where we  
9                    had mortgage rates -- five-year fixed mortgage  
10                   rates fall to what was then a record low. We  
11                   had about a decade low level of new listings in  
12                   the province and we had an economy that was -- I  
13                   think from 2015 to 2017 saw employment grow by  
14                   about 10 percent. So we had a lot of factors  
15                   pushing demand, we had undersupplied markets and  
16                   then on top of that we had sort of, you know,  
17                   runaway price expectations. So sort of an  
18                   almost feedback loop from, you know, you expect  
19                   rising prices; you get rising prices.

20                            And some of that fuelled by foreign  
21                   investment, especially in the single detached  
22                   market, especially in the luxury market. That  
23                   was all happening in 2016, so we had all of  
24                   these things really fuelling growth in prices  
25                   pre-foreign buyer's tax. I think, you know,

1           after a lot of the demand-side measures put in  
2           by the provincial government, the level of  
3           foreign investment in the BC housing markets and  
4           Lower Mainland housing market has steadily  
5           declined.

6                        I think it's still a factor around the  
7           margins. It's probably still a factor in the  
8           luxury market, especially. But to the degree  
9           that we have, like, you know, pretty strong  
10          market segmentation where what happens in the  
11          luxury market, say \$3 million plus, doesn't  
12          necessarily mean much for the rest of the  
13          housing market. There really isn't that much of  
14          a kind of a wider effect.

15          Q       And can you explain that a little bit more.  
16                    What relationship does the luxury housing market  
17                    have to the rest of the housing market and, you  
18                    know, trends in one market, how do they impact  
19                    the other.

20          A       (BO) Yeah. So in theory if you have no what we  
21                    would call market segmentation -- so all markets  
22                    are kind of the same; they have the same sort of  
23                    buyers and sellers -- you would expect that  
24                    demand in one part of the market is going to  
25                    sort of affect the rest of the market as a

1 whole. So if prices are rising in one area,  
2 that's going to kind of trickle down.

3 We don't have that in, say, the luxury  
4 market versus the rest of the market in  
5 Vancouver. If you look at, say, the correlation  
6 between sales at over \$3 million, they're not  
7 very correlated with sales in the \$500,000  
8 range. So there's very clearly kind of a market  
9 segmentation there where, you know, it makes  
10 sense the buyer of a \$4 million mansion is not  
11 the same buyer of a downtown apartment. So --  
12 or an apartment in New Westminister or something.  
13 They're just not -- they're not the same market.  
14 There are going to be -- they are going to have  
15 some correlation, some effect, but generally,  
16 you know, what happens in a very segmented  
17 market isn't going to affect the rest of the  
18 market.

19 Q A buyer of a \$4 million mansion or in Vancouver  
20 a \$4 million dollar condo?

21 A (BO) A nice condo.

22 Q And is there -- is this true across the  
23 province? Are there certain markets that are  
24 differently affected and can you speak to where  
25 the sort of -- where the divide between the

1                   luxury market and the rest of the market is  
2                   usually seen?

3           A       (BO) We just look at it in price points. So,  
4                   you know, in that kind of 3 million and above,  
5                   which is I think about 1 or 2 percent of the  
6                   market as a whole in the Lower Mainland. So  
7                   that we really kind of see as kind of the luxury  
8                   market. Every part of the -- you know, every  
9                   large part of -- every large city is going to  
10                  have its own kind of enclave of very expensive  
11                  markets. But we would generally probably see  
12                  more foreign investment in places like, you  
13                  know, the sort of main wealthy suburbs of Metro  
14                  Vancouver.

15          Q       And is it your view that the luxury markets are  
16                  more impacted by global market influences than  
17                  the remainder of the market?

18          A       (BO) Yeah, just by definition there's only so  
19                  many people locally that are going to be able to  
20                  afford a \$4 million or above home, and so it's  
21                  kind of -- you know, by definition that's kind  
22                  of a global market. We are of course an open  
23                  economy. We're in a very attractive place for  
24                  people to locate. We for years incentivized  
25                  wealthy immigration. And so we have sort of --



1                   that market is established in Vancouver.

2                   Q     And just to summarize, what in your view are the  
3                   most important causes of rapid and significant  
4                   housing price rise in the Lower Mainland?

5                   A     (BO) That is a great question and it really  
6                   depends on what year you're talking about. So  
7                   the biggest -- let's take a look what's it  
8                   happening right now. So this is a very -- 2020  
9                   is a fantastic test case for a lot of these  
10                  hypotheses. We've essentially closed borders.  
11                  Foreign investment is almost zero and yet we're  
12                  seeing home prices rise double digits month  
13                  after month, primarily because we've had this  
14                  other very unusual situation where despite a  
15                  global pandemic and a severe recession, the  
16                  market is probably at its lowest level supply  
17                  perhaps in history in some parts of the  
18                  province. So it lends a lot of credence to the  
19                  idea that supply really matters. When we talk  
20                  about supply, we mean listings, so what you can  
21                  buy in the market right now. And that supply is  
22                  really low and demand is really high in spite of  
23                  no foreign investment, very little immigration  
24                  and yet we have, you know, local incomes,  
25                  domestic factors pushing sales to approach --

1                   probably approaching a record level this year  
2                   and prices are rising at a double digit pace.

3           MS. ROSE: So in speaking about some of these more  
4           current trends, I have two documents that I'd  
5           like to enter as exhibits. The first is the  
6           BCREA market intelligence report of  
7           September 2020. If we could pull that up on the  
8           screen, Madam Registrar.

9           Q     Do you recognize this report, Mr. Ogmundson?

10          A     (BO) Yeah, I wrote it.

11          Q     Okay. And that comments on some of the trends  
12                you were just describing?

13          A     (BO) It does and just sort of -- it's generally  
14                a look back at the housing market during the  
15                pandemic where we had a lot of very unusual  
16                things occur. Normally when you have a severe  
17                recession we see demand falling, supply rising,  
18                you know, you have high unemployment rates and  
19                you would expect that you have forced selling  
20                from people that are particularly financially  
21                vulnerable. Instead what we saw in the -- you  
22                know, a lot of it due to the characteristics of  
23                the pandemic was supply really trend downward as  
24                people practice social distancing and weren't  
25                necessarily interested in listing their homes

1                   during the pandemic but demand really pick up as  
2                   mortgage rates hit a record low. And we had  
3                   some really asymmetric impacts in the labour  
4                   market where higher wage earners actually saw  
5                   employment grow about 6 or 7 percent during the  
6                   pandemic while lower wage and middle wage  
7                   workers really bore the brunt of the recession.

8                   So it sort of just explained all the factors  
9                   that led to some really surprise -- a really  
10                  surprising performance of the housing market  
11                  during 2020.

12                MS. ROSE: I'm hoping, Mr. Commissioner, that we  
13                  could have this marked as exhibit 630.

14                THE COMMISSIONER: Very well, 630.

15                THE REGISTRAR: Sorry, Ms. Rose. 631.

16                MS. ROSE: My apologies.

17                               **EXHIBIT 631: BCREA Market Intelligence Report -**  
18                               **September 9, 2020 - The Unusual World of**  
19                               **Pandemic Economics: Why BC's Housing Market**  
20                               **Remains Strong Despite COVID-19**

21                MS. ROSE: Madam Registrar, I'm hoping we could now  
22                  pull up the BCREA first quarter forecast update  
23                  of January 2021.

24                Q     And, Mr. Ogmundson, do you recognize this  
25                  report?

1 A (BO) I do.

2 Q And it further describes some of the trends that  
3 you've been commenting on?

4 A (BO) Yeah, exactly. Kind of taking the end of  
5 2020 as the starting point and then factoring in  
6 continued low interest rates, a recovering  
7 economy, hopefully soon a ramp up in  
8 vaccinations and sort of what are the  
9 implications of those factors for the housing  
10 market over the next two years.

11 MS. ROSE: Okay. I'd ask that this be entered as the  
12 next exhibit, exhibit 632.

13 THE COMMISSIONER: Very well, thank you.

14 THE REGISTRAR: Exhibit 632.

15 **EXHIBIT 632: BCREA First Quarter Forecast**  
16 **Update - January 25, 2021**

17 MS. ROSE: And I think we can take that down off the  
18 screen now, Madam Registrar.

19 Q Mr. Ogmundson, do you have any views on the  
20 quantification of money laundering in real  
21 estate in BC?

22 A (BO) Yeah, so -- I mean, as an economist we read  
23 the Maloney report and it's fascinating and kind  
24 of compelling from that perspective, especially  
25 their use of a gravity model to estimate money

1           laundering and flows from money laundering. I  
2           think, you know, that gravity model comes from  
3           international trade and so the difference being  
4           though when we're talking about international  
5           trade and trade flows and trying to estimate or  
6           forecast trade flows, we have data that we can  
7           check against those models. So we know if we're  
8           kind of in the right ballpark.

9                         With money laundering, as the commission has  
10           heard from experts, we don't have that data. We  
11           certainly don't have good data, and even the  
12           methodologies used to estimate money laundering,  
13           I think, some have described as so uncertain as  
14           to be unhelpful to policy.

15                        So that is kind of the starting point. We  
16           come up. We have an estimate from the Maloney  
17           report, from their gravity model which is a  
18           really interesting exercise, but we have no way  
19           of knowing how accurate it is and so it's really  
20           uncertain, and again so uncertain as perhaps to  
21           be not a very useful guide. So that's our  
22           starting point for how to estimate the impact of  
23           money laundering on the housing market. We are  
24           starting with an estimate that has a very wide  
25           confidence interval.

1                   Now sort of moving to the impact on the  
2                   housing market. If I were tasked with finding  
3                   someone to make that calculation, I also would  
4                   choose Professor Somerville because he is  
5                   eminently qualified and extraordinarily honest,  
6                   and that honesty comes through all over that  
7                   report because just about every paragraph has a  
8                   caveat about how many assumptions go into the  
9                   estimate that they have made. So I think, you  
10                  know, we start with a very uncertain estimate of  
11                  the flows of money laundering, add about half a  
12                  dozen more assumptions and we get to an estimate  
13                  on the housing market which is -- you know,  
14                  comes out at about 5 percent.

15                  I'd sort of go back as well to that  
16                  intellectual honesty showed by Professor  
17                  Somerville. I think a lot of that didn't get  
18                  transferred, though, to, you know, some of the  
19                  way that that number was presented in the public  
20                  and in the media. It was sort of presented as  
21                  if it was a finding, a forensic accounting sort  
22                  of finding of \$5 billion in money laundering  
23                  rather than the way it's actually presented as  
24                  an estimate with a very wide kind of standard  
25                  error.

1                   So, again, taking that number, another half  
2                   a dozen or so assumptions, and we get to an  
3                   estimate of about a 5 percent impact in the  
4                   housing market. And, again, a number I think  
5                   that's pretty widely misunderstood. That  
6                   estimate comes from a pretty simple calculation  
7                   in this sort of what would he call a static kind  
8                   of calculation. That 5 percent means if we  
9                   could eradicate money laundering completely, or  
10                  at least the proceeds of money laundering  
11                  completely from getting into the BC economy and  
12                  the housing market, then the level of home  
13                  prices would be 5 percent lower. So that's what  
14                  that calculation means.

15                  For context, home prices in the Lower  
16                  Mainland rose about 80 percent between 2010,  
17                  2020, so there's clearly -- even if you take the  
18                  very high end of an estimate of 5 percent,  
19                  there's clearly a lot more going on in the Lower  
20                  Mainland housing market than money laundering.

21                  MS. ROSE: I think those are all of my questions for  
22                  the BCREA panel, Mr. Commissioner. I might  
23                  propose that we take a break now for the benefit  
24                  of the court reporters.

25                  THE COMMISSIONER: All right. Thank you, Ms. Rose.

1                   We'll do that. We'll take -- I think we'll take  
2                   10 minutes at this point. Thank you.

3           THE REGISTRAR: This hearing is adjourned for a  
4                   10-minute recess until 1:54 p.m. Please mute  
5                   your mic and turn off your video. Thank you.

6                   **(WITNESSES STOOD DOWN)**

7                   **(PROCEEDINGS ADJOURNED AT 1:44 P.M.)**

8                   **(PROCEEDINGS RECONVENED AT 1:53 P.M.)**

9

10           THE REGISTRAR: Thank you for waiting. The hearing  
11                   is now resumed. Mr. Commissioner.

12           THE COMMISSIONER: Thank you, Madam Registrar.

13   **DARLENE HYDE, a witness**  
14   **for the commission,**  
15   **recalled.**

16   **BRANDON OGMUNDSON, a**  
17   **witness for the**  
18   **commission, recalled.**

19           THE COMMISSIONER: Yes, Ms. Rose, you've concluded  
20                   with your examinations of the two witnesses?

21           MS. ROSE: Yes, I have, Mr. Commissioner.

22           THE COMMISSIONER: Thank you. I'll call now on  
23                   Ms. Friesen on behalf of the province. And,  
24                   Ms. Friesen, I think you've been allocated  
25                   15 minutes but have indicated that you'll only



1                   need 10. Is that correct?

2                   MS. FRIESEN: That is correct. And it may be less,  
3                   Mr. Commissioner.

4                   THE COMMISSIONER: Thank you.

5                   MS. FRIESEN: Thank you.

6                   THE TECHNICIAN: Mr. Ogmundson, can you please turn  
7                   on the camera.

8                   Sorry, Ms. Friesen. Go ahead.

9                   MS. FRIESEN: Thank you very much.

10                  **EXAMINATION BY MS. FRIESEN:**

11                 Q     Ms. Hyde, my first question is for you. You  
12                   gave evidence regarding education directed at  
13                   realtors, and I believe your evidence -- I'd  
14                   like to summarize your evidence as I understand  
15                   it. I believe you said that it resulted in a  
16                   change in realtors mindsets and that this has  
17                   made a significant difference. Did I accurately  
18                   summarize your evidence?

19                 A     (DH) The -- I was referring to the managing --  
20                   the master compliance program.

21                 Q     Okay. Yes, that's correct. Yeah. And you  
22                   believe that it's made a big difference?

23                 A     (DH) Well, we know anecdotally that as a result  
24                   of the first run of the course that a suspicious  
25                   transaction was made subsequent to the course

1                   which they attributed to information and  
2                   education they learned in the fifth module of  
3                   the course. And other feedback has been similar  
4                   in terms of really giving colour to something  
5                   that was pretty foggy before.

6           Q       Okay. And that was going to be my question to  
7                   you was whether your observations regarding the  
8                   difference that the educational efforts have  
9                   made was based on anecdotal evidence or if there  
10                  have been a more formal analysis.

11          A       (DH) Well, we're just getting to that. The  
12                  mastering compliance program started in October.  
13                  It just finished before Christmas. And we are  
14                  gathering the information now from the  
15                  participants, the 162 participants in order to  
16                  build the second iteration. But it's all --  
17                  what we're getting from the attendees is  
18                  universally positive. From a point of view of  
19                  understanding and a call to action and ability  
20                  and competence and confidence around the  
21                  anti-money laundering obligations.

22          Q       Thank you. And, Mr. Ogmundson, I have a few  
23                  questions for you as well.

24          A       (BO) Okay.

25          Q       I understand you have expertise in economics

- 1 relating to the housing market forecasting and  
2 housing market analysis; correct?
- 3 A (BO) Correct.
- 4 Q And in your role you primarily use forecasts for  
5 housing markets in the -- for the housing market  
6 in BC?
- 7 A (BO) That's right.
- 8 Q Is it fair for say that in producing forecasts  
9 the raw data you largely rely on is the sales  
10 information?
- 11 A (BO) In producing forecasts for the housing  
12 market?
- 13 Q Correct.
- 14 A (BO) We forecast sales, so sales are input but  
15 it's really sort of a collective of economic and  
16 housing data.
- 17 Q Economic and housing data from which sources?
- 18 A (BO) So are you talking about specifically the  
19 forecasting process, or just all of our  
20 analysis?
- 21 Q For the forecasting process.
- 22 A (BO) Okay. So we get sales data and price data  
23 from our member boards or from -- CREA  
24 essentially aggregates them together.  
25 Employment data from Stats Can. Interest rate

1 data from the Bank of Canada, from other sources  
2 for mortgage rates in particular. From places  
3 like RateSpy for discounted mortgage rates.  
4 Generally if you go to Stats Can that's where  
5 we're going to find most of our data unless it's  
6 specifically for the real estate sector, then  
7 it's either CMHC or CREA.

8 Q Thank you. And we have a copy of your CV which  
9 is now entered as an exhibit in these  
10 proceedings, and I've looked at it and I don't  
11 see any reference to experience in modelling on  
12 quantification of money laundering. Is it fair  
13 to say that this is not your area of expertise?

14 A (BO) Yeah, that's fair.

15 MS. FRIESEN: Thank you. Those are my questions.

16 THE COMMISSIONER: Thank you, Ms. Friesen.

17 I understand that Canada is seeking  
18 five minutes and it ordinarily would come at  
19 this point -- at this juncture in the sequence  
20 of examination. So, Ms. French, I'll call on  
21 you now.

22 MS. FRENCH: Thank you, Mr. Commissioner. Yes,  
23 Canada had not given notice to cross these  
24 witness as we had not expected to, but given  
25 what arose earlier I just have a couple of

1                    questions, if that's all right.

2                    THE COMMISSIONER: Yes, that's fine.

3                    **EXAMINATION BY MS. FRENCH:**

4                    Q     Ms. Hyde, my questions are for you. Good  
5                                       afternoon. I'm counsel for Canada. Earlier  
6                                       Ms. Rose asked you some questions about managing  
7                                       brokers and compliance officers and you  
8                                       testified that managing broker and compliance  
9                                       officers are usually the individuals who are  
10                                       responsible for anti-money laundering reporting;  
11                                       is that correct?

12                    A     (DH) My understanding is that the compliance  
13                                       officer/managing broker fills out the forms to  
14                                       FINTRAC.

15                    Q     Okay. And you described them as sort of the  
16                                       critical person on the ground, it's their  
17                                       responsibility to learn the anti-money  
18                                       laundering material and disseminate it to the  
19                                       real estate agents who they're responsible for?

20                    A     (DH) Yes.

21                    Q     And then commission counsel also asked you  
22                                       questions about exhibit 626, which I hope we  
23                                       don't need to go to. It was the FINTRAC  
24                                       presentation that included the table of red flag  
25                                       indicators that FINTRAC provides. Do you recall

1                   that table?

2           A       (DH) I believe I do, yes.

3           Q       Okay. If we need to go to it. We absolutely  
4                   can. But in reference to these kinds of FINTRAC  
5                   materials, you were asked if there's any sort of  
6                   convenient hub of information for real estate  
7                   agents, compliance officers/managing brokers.  
8                   Do you recall those questions?

9           A       (DH) I do. I understood the question to be a  
10                   hub outside of the brokerage.

11          Q       Outside of the brokerage.

12          A       (DH) Yes.

13          Q       Yes. And you said you weren't entirely sure how  
14                   the FINTRAC information was disseminated to real  
15                   estate agents?

16          A       (DH) Right.

17          Q       Is that correct?

18          A       (DH) Yes.

19          Q       I'm just wondering if you're aware if this  
20                   information is all available publicly on  
21                   FINTRAC's website?

22          A       (DH) I'm sure it is, but in terms of -- that  
23                   would be pull information. In terms of push  
24                   information, need to know at the moment, I  
25                   wasn't aware of how information gets out in a

1                   timely way to the people that need to act on it.

2           Q       Okay. Thank you for clarifying that. You also  
3                   noted that realtors are fairly tech savvy, which  
4                   I'm sure they appreciate, and so any access to  
5                   this public website or a public website as a hub  
6                   of information that wouldn't pose a problem to  
7                   realtors generally?

8           A       (DH) No. No.

9           MS. FRENCH: Thank you, Ms. Hyde.

10                   Mr. Commissioner, those are all my  
11                   questions.

12           THE COMMISSIONER: Thank you, Ms. French.

13                   Ms. Magonet for the BC Civil Liberties  
14                   Association, who I think has estimated  
15                   ten minutes. Ms. Magonet.

16           MS. MAGONET: Yes, that's correct. Thank you,  
17                   Mr. Commissioner.

18           **EXAMINATION BY MS. MAGONET:**

19           Q       My questions are for Mr. Ogmundson. Am I  
20                   pronouncing your name correctly?

21           A       (BO) You got it.

22           Q       Great. So my first question for you -- or  
23                   rather my first questions for you concern  
24                   foreign investment in BC real estate. And I was  
25                   wondering if you could speak to the dangers of

1 conflating foreign investment that may include  
2 money that enters Canada in violation of capital  
3 controls from another jurisdiction with money  
4 laundering which would have to do with a crime  
5 in Canada. If you could speak to just the  
6 dangers of treating those two things as the  
7 same.

8 A (BO) Yeah. I mean, BC is an economy that  
9 thrives on immigration, and I think a lot of the  
10 time what we see is conflation of money that  
11 comes into Canada legally, whether through  
12 foreign investment or through immigration, is  
13 often sort of painted with the same brush as  
14 money that is produced through illegal means. I  
15 think you -- we see that a lot even when we talk  
16 about foreign investment, which is legal, it  
17 often gets sort of painted as being from some  
18 ill gotten gains and unfair and sort of I think  
19 a lot of that comes out in some pretty ugly  
20 rhetoric and some -- even some mainstream  
21 places, some pretty ugly rhetoric and some  
22 pretty ugly implications.

23 So I think that's the real -- the danger.  
24 We are constantly treating or scapegoating  
25 foreign investment really and blaming it for



1                   challenging affordability that really is arising  
2                   from failures in other parts of policy.

3           Q        Thank you. Are you aware of any research  
4                   showing that foreign investors -- or rather  
5                   foreign buyers are more likely to engage in  
6                   flipping and speculation than Canadian buyers?

7           A        (BO) I'm not.

8           Q        Okay. Thank you. We can go to this report, if  
9                   it's helpful to you, but you may be able to  
10                  answer these questions without looking at it.  
11                  These are just some points that came up in the  
12                  foreign buyer tax presentation slides that were  
13                  referred to earlier. My understanding after  
14                  reviewing that slide deck is that at least in  
15                  2018, which is the time period this particular  
16                  point concerned, that the number of foreign real  
17                  estate purchases was quite low in Vancouver and  
18                  BC more broadly. Is that correct?

19          A        (BO) I think by 2018 -- off the top of my head I  
20                  think we were probably 2017 around 3 percent in  
21                  Metro Vancouver and by 2018 had fallen under  
22                  that level. Again, I think the capital controls  
23                  put in place in China and perhaps some other  
24                  factors really saw kind of a down trend in  
25                  overall foreign investment to the point where

1                   it's sort of in that 1 1/2 to 2 1/2 percent  
2                   range. Is that about right, without looking at  
3                   the slides?

4           Q       Yeah, I think that you had said that -- or this  
5                   slide deck said it was -- that foreign real  
6                   estate purchases were at 2.4 percent in BC more  
7                   broadly and 3 percent in Metro Vancouver in  
8                   2018.

9           A       (BO) Right. Right.

10          Q       And my understanding is that refers to the flow  
11                   of foreign purchases which is sometimes  
12                   distinguished from the stock, so how many -- how  
13                   much property overall is owned by foreign buyers  
14                   in BC. Are you able to speak at all as to  
15                   whether that was a high number at that time  
16                   period?

17          A       (BO) Yeah, so --

18          Q       It's okay if you can't.

19          A       (BO) No, no. I'm just -- so 3 percent is the  
20                   flow. So if we look at total numbers of  
21                   transactions compared -- you know, foreign  
22                   investment transactions compared to total  
23                   residential transactions, it's really hard  
24                   because we only have data going back to 2016.  
25                   So kind of the high point in that data reflects

1                   when the foreign buyer tax was announced so we  
2                   had kind of a flurry of activity, so we don't  
3                   really have a good benchmark so when foreign  
4                   investment was really high versus really low. I  
5                   think we can say that under 5 percent is a  
6                   pretty low amount of foreign investment.

7                   When we look at total foreign ownership  
8                   through data available through the speculation  
9                   and vacancy tax and especially foreign ownership  
10                  where units are left vacant, we're talking  
11                  about, you know, less than .2 percent of the  
12                  housing stock.

13                  So I think I lost the plot on the -- part of  
14                  that question, but yeah.

15                  Q    No, that's very helpful. That actually goes  
16                  into my next question.

17                  A    (BO) Okay.

18                  Q    Which is that this presentation also showed that  
19                  very few properties owned by foreign owners were  
20                  left vacant or were the houses of so-called  
21                  satellite families. Is that accurate?

22                  A    (BO) That's correct. So again from the  
23                  speculation and vacancy tax data, the number of  
24                  households that actually paid that tax I think  
25                  was about 12,000 in its first year, and I think

1                   less than that in the most recent data from  
2                   2019. And so as a share of the housing stock, I  
3                   mean, if you filled out an SVT form, I think it  
4                   says right on it that fewer than 1 percent of  
5                   households paid this tax and the share that is  
6                   leaving units empty that is foreign is about  
7                   .2 percent.

8                                 Satellite families are occupying their  
9                   homes, so they are sort of -- you know, I think  
10                  that's a different issue. And then there's a  
11                  share of Canadians that leave their homes empty  
12                  as well and sometimes get classified in the  
13                  non-resident data even though they're Canadians  
14                  living abroad.

15                  Q     Thank you. So overall this data paints a  
16                  different picture than the story we sometimes  
17                  hear in the media that there are tons of houses  
18                  being bought by foreign buyers and left empty  
19                  and that that is the principal cause of  
20                  unaffordable housing in BC. Would you agree  
21                  with that, that the data's telling a different  
22                  story?

23                  A     (BO) I would. There just simply isn't the sort  
24                  of vacancy issue. I mean, we have data now of  
25                  actual people paying taxes on empty units, so we

1 don't need to refer to old studies. We have  
2 data right now that tells us you that there  
3 aren't very many vacant units in Vancouver.

4 MS. MAGONET: Thank you. Those are my questions.

5 THE WITNESS: (BO) Thank you.

6 THE COMMISSIONER: Thank you, Ms. Magonet.

7 Mr. Rauch-Davis for Transparency  
8 International Coalition, who's been allocated  
9 ten minutes.

10 MR. RAUCH-DAVIS: Thank you.

11 **EXAMINATION BY MR. RAUCH-DAVIS:**

12 Q My questions will be for you, Ms. Hyde. You  
13 mentioned in your evidence this afternoon that  
14 BCREA supported the Land Owner Transparency  
15 Registry. Do I have that right?

16 A (DH) Yes, you do.

17 Q Yeah. And I take it that the BCREA also support  
18 the creation of a corporate beneficial ownership  
19 registry.

20 A (DH) We do, yes.

21 Q Yeah. From your perspective what are the  
22 benefits of the corporate beneficial ownership  
23 registry?

24 A (DH) It would give visibility into who are the  
25 primary owners of a particular entity.

1 Q Right. And in that way it would assist AML  
2 efforts in the real estate sector as well as the  
3 corporate sector; right?

4 A (DH) It would, yes.

5 Q Yeah. And so the BCREA, as I understand it, is  
6 also affiliated with the CREA; right?

7 A (DH) The CREA is the federal body, the national  
8 body, yes.

9 Q And the CREA also supports a corporate  
10 beneficial ownership registry; right?

11 A (DH) You know, I can't say one way or the other.  
12 I think it does, but I'm not sure.

13 MR. RAUCH-DAVIS: Okay. So there's a letter and I  
14 wonder if it's best to take -- bring it up.  
15 It's in exhibit 601, Madam Registrar, which is  
16 the overview report. And it's appendix 22.  
17 Yes, if you just stay on this first page.

18 Q So, Ms. Hyde, I take it this is a letter that  
19 you authored; right?

20 A (DH) Yes.

21 Q It's on the screen as well?

22 A (DH) April 29th, yeah.

23 Q Yeah, April 29th, 2020. And this is the BCREA's  
24 submission on the public beneficial ownership  
25 registry; right?

1           A       (DH) That's correct.

2           Q       Right. And so part of this letter is you  
3                    discuss some of the factors that the BCREA or  
4                    some of the mechanics of what the registry  
5                    should look like, and I just thought I would go  
6                    over some of them with you and ask some  
7                    questions about it. So the first that I'll look  
8                    to is the issue of public access. Does the  
9                    BCREA support public access of a corporate  
10                  beneficial ownership registry?

11          A       (DH) Are you looking at the second page here,  
12                    "Public Access"?

13          Q       I am, yeah. You'll see on second page it says:  
14                    "We firmly believe that transparency needs  
15                    to be balanced with privacy and so the  
16                    BCREA urges the government to consider a  
17                    broad approach to privacy in AML  
18                    measures."

19                   And I won't read the whole paragraph, but I take  
20                   it that the BCREA's position is that there  
21                   should be public access insofar as it's  
22                   necessary to meet the AML mandate. Do I have  
23                   that right?

24          A       (DH) That's correct.

25          Q       Yeah. And basically here you're saying that the

1                   BCREA is not in a position to comment on what  
2                   might be minimally intrusive and what might meet  
3                   that mandate but that there should be some  
4                   public access afforded; right?

5                   A     (DH) That's correct.

6                   MR. RAUCH-DAVIS: Right. The next topic that I'd  
7                   like to discuss is on the third page, Madam  
8                   Registrar, and that's under the heading "Role in  
9                   Government" here.

10                  Q     So here you set out that:

11                                 "We prefer --"

12                                 We, as in the BCREA.

13                                 "-- prefer government take a reactive  
14                                 approach to verifying the accuracy of  
15                                 information in the registry, and by that  
16                                 meaning the government only take steps to  
17                                 verify information when alerted by another  
18                                 party that the information might be  
19                                 incorrect."

20                                 Does the BCREA maintain that position?

21                   A     (DH) It does.

22                   Q     And so I guess my first question is can you  
23                   expand on what "reactive approach" means to you.

24                   A     (DH) That any verification of accuracy take  
25                   place as a reaction or a response to a notice or



1 an alert that this information may be incorrect.

2 Q And I take it that the reason you support -- or  
3 you support a reactive approach as opposed to a  
4 proactive approach; right? There's really only  
5 two approaches. As in -- and by proactive I  
6 mean something like having infrastructure built  
7 in place of the registry that would verify  
8 identification at the outset.

9 A (DH) I think we're trying to take a minimalistic  
10 approach to this in terms of where it's needed  
11 to correct information, we do so.

12 Q Okay. And I take it the reason you support a  
13 reactive approach is based on similar  
14 considerations that you've mentioned in your in  
15 chief evidence was that realtors are on the go,  
16 pressed for time and that a proactive approach  
17 might represent an undue burden. Do I have that  
18 right?

19 A (DH) I think it goes back to a risk-based  
20 approach that I mentioned that information  
21 should be -- additional information should be  
22 gathered when there's a trigger in terms of a  
23 sense that we need more information.

24 Q Okay. But -- and I take it you're writing this  
25 letter as an advocate on behalf of the BCREA?

1 A (DH) Yes.

2 Q And I don't -- you're not saying that a reactive  
3 approach is the best approach for AML efforts,  
4 are you?

5 A (DH) No, no, no. We're saying that because of  
6 all the issues connected with the beneficial  
7 ownership and privacy issues and all of these  
8 other issues that we do what we need to do in  
9 order to keep this an integral registry but that  
10 at this point -- at this point we're not sure a  
11 full proactive approach has the cost benefit.

12 Q And could I ask who was involved from your  
13 office in drafting this letter, coming up with  
14 this position?

15 A (DH) Our policy group.

16 Q And do you know, was the UK beneficial ownership  
17 registry considered in coming up with this  
18 position?

19 A (DH) I can't answer that.

20 Q Are you aware of the UK beneficial ownership  
21 registry?

22 A (DH) Only peripherally.

23 Q And do you have any knowledge of the fact that  
24 one of the main issues with the UK beneficial  
25 ownership registry is that they don't have a

1                   proactive client identification verification  
2                   system?

3           A       (DH) I can't comment on that.

4           Q       Because they implemented a registry in 2016 and  
5                   the --

6           MR. WEAFER: Mr. Commissioner, the witness said she  
7                   has no knowledge of this and now [indiscernible]  
8                   just putting information on the record that she  
9                   can't respond to.

10          THE COMMISSIONER: I am sorry, Mr. Weafer, I'm having  
11                   great difficulty in hearing you.

12          MR. WEAFER: Is that any better?

13          THE COMMISSIONER: No, I am afraid it's not. Could  
14                   you try again.

15          MR. WEAFER: How's that?

16          THE COMMISSIONER: That's a little better.

17          MR. WEAFER: I'll speak slowly and hope  
18                   [indiscernible]. Ms. Hyde has indicated she has  
19                   no information or knowledge of what counsel is  
20                   now seeking to put more questions to her on or  
21                   has put more description of the system on the  
22                   record she's indicated she knows nothing about.

23          THE TECHNICIAN: I'm sorry, Mr. Weafer, would you  
24                   please ensure that your microphone is the same  
25                   one that you are using.

1 MS. ROSE: I wonder if I might suggest that Ms. Hyde  
2 mute her microphone while Mr. Weafer is speaking  
3 just for clarity.

4 THE COMMISSIONER: That might help.

5 MR. WEAFER: Does that help?

6 THE COMMISSIONER: Yes, that's better. Thank you.

7 MR. WEAFER: Thank you. Ms. Hyde has indicated twice  
8 that she doesn't know of the registry that  
9 counsel is putting to her again and now he's  
10 starting to describe it further. So I'm just  
11 wondering what value she can add to the  
12 questions if she doesn't have any background  
13 knowledge on the topic.

14 MR. RAUCH-DAVIS: Mr. Commissioner, I'm content to  
15 reframe my questions without use of the UK  
16 registry, which Ms. Hyde has indicated she's not  
17 aware of.

18 THE COMMISSIONER: All right. Well, I think she said  
19 she was peripherally aware of it, but yes, I  
20 think that is a fair comment by Mr. Weafer.  
21 Thank you, Mr. Rauch-Davis.

22 MR. RAUCH-DAVIS:

23 Q So, Ms. Hyde, back to the reactive approach that  
24 you have set out that you support in this  
25 letter, wouldn't you agree that money launderers



1 page you'll see:

2 "Transparency registers are a new process  
3 for realtors, so BCREA recommends  
4 flexibility for those whose registers are  
5 found lacking. A heavy-handed approach to  
6 enforcement would negatively impact the  
7 business and also their  
8 customers/clients."

9 Do you see that statement?

10 A (DH) I do.

11 Q And so again you're not saying that avoiding a  
12 heavy-handed approach is the best approach for  
13 AML efforts; you're just saying on behalf of the  
14 BCREA take it easy on us at the transition  
15 period or something to that effect?

16 A (DH) We are saying that this was a new area for  
17 British Columbia, it was a new venture and that  
18 a heavy-handed approach may not be the best  
19 approach to ensure compliance.

20 Q Would you agree that at some level a  
21 heavy-handed approach is warranted to ensure AML  
22 efforts are furthered? So for example, if  
23 someone repeatedly provides false declarations  
24 to a beneficial ownership registry, wouldn't  
25 that in your mind warrant a heavy hand?

1           A       (DH) That would be a reactive approach, though.  
2                    That would be something that we're responding to  
3                    in terms of okay, we need to strengthen this.  
4                    So we feel that the approach was appropriate, is  
5                    appropriate for this beneficial ownership  
6                    registry. It's not ours to develop; it was a  
7                    recommendation. It will be -- it is being  
8                    developed by others. So it's a position that we  
9                    offered and it is for regulators and lawmakers  
10                   to build a beneficial ownership registry that's  
11                   robust enough to address anti-money laundering  
12                   concerns.

13           Q       So under the *PCMLTFA* real estate professionals  
14                    have know-your-client obligations. I believe  
15                    you alluded to the fact that in June real estate  
16                    professionals are going to be required to obtain  
17                    beneficial ownership information on their  
18                    clientele?

19           A       (DH) I believe that is the case.

20           Q       Yeah. So -- and they're also going to have to  
21                    ensure the accuracy of that information using  
22                    reliable sources and taking reasonable steps.  
23                    Do you agree with that?

24           A       (DH) I do.

25           Q       And do you -- would you -- in your opinion would

1                   a publicly accessible beneficial ownership  
2                   registry be a valuable resource in meeting those  
3                   objectives?

4           A       (DH) Yes.

5           Q       But of course that registry would only provide  
6                   utility if the data in that registry is of  
7                   sufficient value, is of sufficient quality,  
8                   don't you agree?

9           A       (DH) True.

10          Q       Yeah. And so the registry is really only as  
11                   good as the ID verification in it, isn't it?

12          A       (DH) True.

13          MR. RAUCH-DAVIS: Okay. Thank you. Those are my  
14                   questions.

15          THE COMMISSIONER: Thank you, Mr. Rauch-Davis.

16                   Mr. Usher for the Society of Notaries Public  
17                   of BC. Five minutes.

18          MR. USHER: Thank you, Mr. Commissioner. Having  
19                   heard the testimony of the witnesses, I have no  
20                   questions at this time.

21          THE COMMISSIONER: Thank you, Mr. Usher.

22                   Anything arising, Ms. Magonet, from  
23                   Mr. Rauch-Davis.

24          MS. MAGONET: Nothing, Mr. Commissioner. Thank you.

25          THE COMMISSIONER: Thank you. Ms. French?



1 MS. FRENCH: Nothing arising. Thank you.

2 THE COMMISSIONER: Thank you. Ms. Friesen?

3 MS. FRIESEN: Nothing, Mr. Commissioner. Thank you.

4 THE COMMISSIONER: Ms. Rose?

5 MS. ROSE: Nothing from me, Mr. Commissioner. Thank you.

6 THE COMMISSIONER: Thank you. All right. I would  
7 like to thank both of the panelists for their  
8 very interesting and comprehensive review of the  
9 BC Real Estate Association's enterprises. It's  
10 been very helpful and you're now excused from  
11 further testimony. Thank you.

12 THE WITNESS: (DH) Thank you.

13 THE WITNESS: (BO) Thank you.

14 **(WITNESSES EXCUSED)**

15 THE COMMISSIONER: And, Ms. Rose, I think we are now  
16 in a position to adjourn until tomorrow at 9:30,  
17 unless there's anything else to deal with.

18 MS. ROSE: Nothing that I can think of,  
19 Mr. Commissioner. I think it's safe to adjourn.

20 THE COMMISSIONER: Thank you. We will adjourn until  
21 tomorrow at 9:30.

22 THE REGISTRAR: The hearing is now adjourned until  
23 February 18, 2021, at 9:30 a.m. Thank you.

24 **(PROCEEDINGS ADJOURNED AT 2:24 P.M. TO FEBRUARY 18,**  
25 **2021)**