

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

**Public Hearing**

**Commissioner**

The Honourable Justice  
Austin Cullen

**Held at:**

Vancouver, British Columbia  
via video link

Tuesday, June 2, 2020

## APPEARANCES

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William Smart, QC	B.C. Lottery Commission
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Chris Weafer Patrick Weafer	B.C. Real Estate Association
Emily Lapper	BCCLA
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Kevin Westell	Criminal Defence Advocacy Society
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1  
Oliver Bullough (for the Commission)  
Examination by Mr. Martland, Counsel for the  
Commission

Vancouver, B.C.  
June 2, 2020

1  
2  
3  
4 THE REGISTRAR: Good morning, everyone. The hearing  
5 is resumed.

6 OLIVER BULLOUGH, a witness,  
7 recalled.  
8

9 THE COMMISSIONER: Thank you, Madam Registrar. Mr.  
10 Martland, are you ready to proceed?

11 MR. MARTLAND: Yes. Thank you, Mr. Commissioner,  
12 I am. Good morning, Mr. Bullough, or good  
13 afternoon in your case.

14 A Good afternoon and good morning.  
15

16 EXAMINATION BY MR. MARTLAND, continuing:  
17

18 Q Good. I shall resume with a few, if you will,  
19 stray points that I wanted to pick up on, and  
20 then a last set of questions, I expect.

21 And so as we worked our way through a number  
22 of different, I guess I would say, transactions,  
23 sectors, methods, tools of the trade for the  
24 money launderer, we touched on a number of  
25 different topics in that. And I wanted to see if  
26 you had comments, in particular as they connect  
27 to money laundering and the movement of illicit  
28 funds, first of all about cryptocurrency and  
29 virtual assets. So the bitcoins, the other  
30 variants on value and currency that is not in the  
31 traditional banknote issued by a given country.

32 A Cryptocurrencies are increasingly important,  
33 particularly more for the illegal drugs trade  
34 than perhaps what you might call kleptocracy.  
35 Partly this is because of the volumes of money  
36 involved. If you're stealing billions upon  
37 billions of dollars, there just isn't the  
38 liquidity in the cryptocurrencies to sustain  
39 those kind of transactions. And also, if you are  
40 a kleptocrat, you tend to have control over a  
41 financial system of your own, so you have a  
42 pretty good place to start laundering money from,  
43 whereas if you are a drug trafficker, you don't  
44 have that luxury as a rule.

45 So I think they are of growing significance.  
46 It's something I'm trying to keep an eye on. But  
47 I don't think it's currently of massive

1           significance in the kleptocracy space.

2           If you are sufficiently wealthy, all  
3           currencies are a cryptocurrency. You can afford  
4           to hide, you know, ordinary currencies with all  
5           the ingenuity that money can buy, and that can be  
6           very ingenious indeed. So you don't particularly  
7           need cryptocurrencies. In fact, to be honest, I  
8           know a number of investigators who work in this  
9           space, and they are actually able to trace  
10          cryptocurrency transactions quite well. They're  
11          not as hidden as you might think.

12         Q       Yeah, we've heard that there's a different side  
13           to the blockchain methodology that may actually  
14           leave fingerprints or at least a breadcrumb trail  
15           to trace things.

16         A       Certainly, yeah. I mean, it's -- I think they  
17           find that actually surprisingly useful.

18         Q       Mmh. The other topic which I would be interested  
19           for your comments on is luxury goods. You  
20           mentioned the three Rolex dealers that are within  
21           a short space of One Hyde Park yesterday in your  
22           evidence. To what extent are luxury goods seen  
23           and what sort of stage in the process would they  
24           often appear?

25         A       Luxury goods are very useful for transferring  
26           value in a way that doesn't leave fingerprints in  
27           the financial system, particularly if they are  
28           transferred within so-called free ports, these  
29           areas that are within the jurisdiction of a  
30           country but outside of its customs area. There's  
31           a very big one in Geneva in Switzerland, another  
32           one in Singapore, and various others all over the  
33           place. If you have, say, a quantity of gold  
34           bullion inside a free port, or a particularly  
35           noted work of art, you know, a Picasso or a Monet  
36           or whatever, if you transfer that essentially  
37           from one vault to another -- or in fact, you  
38           don't even need to transfer it physically. You  
39           can just transfer title to it within the free  
40           port. You could transfer value from one  
41           individual to another without leaving any trace  
42           of any kind to anyone except the owner of the  
43           free port, who can be relied on for their  
44           discretion.

45           So you know, the items of value can be very  
46           useful as a way of transferring, you know, -- of  
47           paying for something without leaving a trace in

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1 the financial system. I mentioned yesterday that  
2 this is of great use particularly to Chinese  
3 officials trying to get value out of China for  
4 whatever reason. If they ship luxury goods in  
5 one direction, often from the West to China, and  
6 then pay for them [indiscernible] by shipping  
7 synthetic narcotics in the opposite direction.  
8 That can help move value in and out of China  
9 without violating the \$50,000 limit on movement  
10 of pure capital.

11 So yeah, I mean, luxury goods or high value  
12 goods of any kind are a very useful way of  
13 circumventing the limits on movements of money.  
14 I was talking to someone the other day who said  
15 they had a client who doesn't really bother with  
16 the financial system at all. They just wear  
17 expensive watches. And when they arrive  
18 somewhere, they just take it somewhere and sell  
19 the watch and they've got enough cash to be  
20 getting on with for as long as they need.

21 Q So much for travel allowance.

22 A Well, right, yeah. And so much for trying to  
23 trace transactions. That's untraceable.

24 Q Yeah. Again, in the sort of stray category, I  
25 put forward yesterday three of your articles for  
26 the *Guardian*. There's a fourth one that I didn't  
27 touch on and I'm hoping our Registrar can help me  
28 in bringing that up. It's an article entitled  
29 "How Britain Let Russia Hide Its Dirty Money,"  
30 dating to May 25th, 2018.

31 MR. MARTLAND: Madam Registrar, if you're able to  
32 display that, please. Thank you.

33 Q Mr. Bullough, you recognize that as the article  
34 I've just described?

35 A Yes, I do.

36 MR. MARTLAND: Mr. Commissioner, I'll ask this,  
37 please, be marked as an exhibit.

38 THE COMMISSIONER: Very well. That will be Exhibit  
39 17.

40 THE REGISTRAR: Exhibit 17.

41  
42 EXHIBIT 17: Article from the *Guardian*  
43 entitled "How Britain let Russia hide its  
44 dirty money"  
45

46 MR. MARTLAND:

47 Q Mr. Bullough, without going into detail, in this

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Commission

1 article you talk about consequences in particular  
2 of significant amounts of Russian money being  
3 relocated to the UK, and I suppose by analogy one  
4 might think about other countries and other ways  
5 that money is moved around. But could you tell  
6 us about in particular some of the consequences  
7 of that influx of Russian money and wealth into  
8 the UK.

9 A Yes. This was -- that article was written in the  
10 context of the immediate aftermath of the  
11 poisoning in Salisbury, the British city of  
12 Salisbury, that was targeted by agents of the  
13 Russian military intelligence, the GRU, with  
14 chemical weapons. So there was a big focus in  
15 the UK on specifically Russian money. The  
16 observations in the article about Russian money  
17 could equally be applied to money from almost any  
18 of the republics of the former Soviet Union. The  
19 techniques and the risks are the same.

20 Essentially Britain in particular has been  
21 very open to money of former Soviet origin since  
22 1991. Initially I think there was a perhaps  
23 naive belief that by opening our economy to  
24 theirs so they open their economy to us, we would  
25 export best practice to these new democracies,  
26 these newly capitalist countries, and thereby  
27 "teach" them, in inverted commas, how to be good  
28 democratic capitalists.

29 Sadly, I think to a large extent the  
30 teaching has happened in the opposite direction.  
31 Many highly skilled kleptocrats and organized  
32 criminals from the former Soviet Union have moved  
33 to Britain, have moved money to Britain, and have  
34 employed a large number of British professional  
35 enablers to allow them to integrate to British  
36 society. And they have been extremely successful  
37 in doing that, whether that is in funding  
38 political groups in the Houses of Parliament or  
39 in funding various philanthropic causes or other  
40 organizations in the UK, you know, the Russian --  
41 Russian money has seamlessly integrated into the  
42 British economy and would now be essentially  
43 impossible to extract.

44 I would like to mention, however, that this  
45 is not a purely post-Soviet story. Russian  
46 origin money or Soviet origin money was being  
47 laundered via British tax havens before the

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Commission

1 collapse of the Soviet Union. The various Soviet  
2 state agencies were very good at exploiting the  
3 loopholes in the capitalist economies. And also  
4 the sort of seed capital for the birth of the  
5 offshore dollar market in London in the 1950s,  
6 the first sort of flickerings of what became the  
7 offshore market, the seed capital came from the  
8 Moscow Narodny Bank, which was the Russian state-  
9 owned bank in London. They didn't want to keep  
10 their dollars in the United States because they  
11 feared they could be frozen at any time or  
12 confiscated during the height of the Cold War.  
13 It was more convenient and secure for them to  
14 keep them in London, and that provided seed  
15 capital for British banks to trade dollars.

16 So there has been a long-lasting  
17 entanglement between frankly nasty institutions  
18 from the Eastern Bloc, the old Eastern Bloc, and  
19 the UK financial elite, which seamlessly segued  
20 into connections between a new kleptocratic elite  
21 in what used to be the Eastern Bloc, and the  
22 British financial elite. It's been generations  
23 long and very profitable to both sides.

24 Q In the article that you wrote for the *Guardian*,  
25 you describe this as being effectively a way that  
26 people stealing money out of Russia or moving it  
27 out of Russia or both, can draw a line under  
28 crimes of theft. What do you mean by that way of  
29 putting it?

30 A Well, if you can move money to a rule of law  
31 jurisdiction such as the UK and establish a  
32 reputation as a philanthropist, you cease to be,  
33 you know, what might be called an oligarch or a  
34 kleptocrat, and you become merely another wealthy  
35 Londoner. You know, we have one of the major  
36 newspapers here, the *Sunday Times*, publishes an  
37 annual rich list which is, loosely speaking,  
38 equivalent to the *Forbes* List of wealthy  
39 Americans. And it's notable how often Russians  
40 will be the top of or very near the top of that  
41 list. As soon -- if you're rich enough, then in  
42 Britain you instantly belong. No one cares where  
43 you come from. So it is a -- we have a very  
44 accommodating society to people who are rich.  
45 And I think that has been greatly appreciated by  
46 people of very questionable wealth. As soon as  
47 they come here and splash a bit of money around,

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1 the questions about their wealth essentially  
2 cease to be asked, in a way that is not the case  
3 in, for example, the United States. In the  
4 United States, people -- wealthy Russians would  
5 struggle to get visas or might find criminal  
6 cases are open against them in a way that just  
7 hasn't happened in the UK.

8 Q Mmh. I'm going to move to a different and quite  
9 a broad question, and I'd be interested for your  
10 response to this. Some put forward a theory --  
11 and to be clear about it, it's not my theory --  
12 but there's a view of the world that would say  
13 what a country should do is simply open the gates  
14 and let things happen, let things roll. If  
15 there's money moving into a country, that means  
16 that people who work in restaurants and hotels  
17 and car dealerships all get jobs, that those are  
18 working people who pay taxes, that it's good for  
19 the economy, that simply the existence or the  
20 flow of cash on its own is a good thing and we  
21 shouldn't get caught up in tracing the provenance  
22 of that money.

23 I'd be very keen to hear what you say in  
24 response. I'm sure you've heard that sort of  
25 view of the world that doesn't impose any moral  
26 lens over the conduct and simply says: Let it  
27 happen. It's good for the economy.

28 A Yeah. I mean, it's a point of view. I'm  
29 inherently suspicious of any philosophy that is  
30 self-serving, that is profitable for the person  
31 expressing it. I normally counter by saying if  
32 it's a good idea to open the gates, why not open  
33 the gates and let people in as well as money? If  
34 you think it's so good to not have borders, then  
35 let's not have borders. And normally the people  
36 who express a viewpoint that it's good to allow  
37 as much money in as possible don't tend to be  
38 quite so happy to allow as many people in as  
39 possible.

40 So I think the issue is always one of  
41 balancing the rights of an individual to wealth  
42 they have earned and the rights of a society to  
43 have oversight over that wealth and to make sure  
44 it is not the product of crime.

45 I don't see -- at the moment it seems to me  
46 that the balance is profoundly skewed in the  
47 favour of the owners of wealth and not in favour

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1 of society's right to check the provenance of  
2 that wealth.

3 So if people are saying that there need to  
4 be even fewer checks on the origins of money and  
5 money should be allowed to flow even more freely,  
6 then I profoundly disagree with them. At the  
7 moment, hundreds of billions of dollars, if not  
8 more, of stolen money flows out of developing  
9 countries every year and into developed  
10 countries, primarily, as I said, the major  
11 anglophone economies. That money is wasted in  
12 pumping up asset bubbles and in inflating the  
13 prices of luxury goods when it could be being  
14 invested in essential services, essential  
15 infrastructure for people who desperately need  
16 it.

17 And I would genuinely -- I think anyone who  
18 actually understands what is going on and has the  
19 situation explained to them in a straightforward  
20 way about where the money is coming from, what it  
21 is being stolen from, and what it's being spent  
22 on, I think that I could talk anyone round.  
23 Unless someone has a profound personal financial  
24 benefit in the movement of that money, I think I  
25 can persuade anyone that believing in the  
26 unfettered movement of capital, if we do not have  
27 the unfettered movement of people, is a bad  
28 thing.

29 Q And you say the money isn't necessarily neutral,  
30 that it may have -- the fact of that money being  
31 taken out of a developing country as an example,  
32 has a profound effect on real people in that  
33 place.

34 A Yeah. I mean, money is just fossilized power.  
35 If you're moving it from one place to another  
36 place, you're just removing, you know, an  
37 expression of power from one place so you can  
38 essentially exert that power somewhere else. You  
39 know, if you are able to abuse your power in one  
40 place, you are able to essentially unlawfully  
41 accumulate money in a way that you shouldn't be  
42 able to. You know, it's a, you know, a way of  
43 transporting, you know, the misdeeds of someone  
44 from one country to another. And I -- yeah, I  
45 think we need to be much better at checking the  
46 origin of money, not much more liberal about it.

47 Q With respect to the sorts of recommendations you

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1 have for trying to come to grips and making  
2 better efforts to deal with money laundering and  
3 the flow of illicit funds, you've spoken about  
4 information having transparent but especially  
5 having verifiable information, things like  
6 databases for corporate registry, for corporate  
7 ownership and beneficial ownership. I'd be very  
8 keen to hear what your take is on which countries  
9 are doing a better or worse job, and who and what  
10 sorts of models you think are preferable in terms  
11 of enforcement. So there's a side of this which  
12 is writing the rules. There's another side of  
13 this which is enforcing those rules and getting  
14 compliance with them.

15 A New Zealand has done a good job in policing its  
16 corporate registry. I think that -- they had  
17 very similar problems to the UK in the early  
18 2010s. They had a number of scandals involving  
19 weapons smuggling, involving North Korea and  
20 Iran, and the scandals revealed, you know,  
21 sizable loopholes in their regulation of  
22 corporate registration. They responded quickly,  
23 imaginatively, and forcefully. They dissolved a  
24 number of countries [*sic*], struck them off the  
25 registry, and cleaned up their registration, made  
26 it much harder just to create a company and, you  
27 know, for just anyone to do that. And it has had  
28 a remarkable effect. New Zealand is essentially  
29 no longer a problem. So they have done well. I  
30 think that is a model that repays a lot of  
31 examination.

32 In terms of places that are doing badly, the  
33 United States is by far the worst offender in  
34 terms of corporate registration of anywhere in  
35 the world. There is an academic study. One of  
36 the authors is an academic here in the UK called  
37 Jason Sharman. I think there are three or four  
38 authors on this study about the ease with which  
39 one can establish shell companies in different  
40 countries in the world. America is by far the  
41 worst offender, and there are states within  
42 America that are even worse. Nevada is a  
43 particular outlier, and Delaware and so on. So  
44 in terms of corporate transparency, America  
45 remains the worst.

46 You know, Britain, as I was saying  
47 yesterday, talks a strong game and has tried to

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1 improve its position, but the steps it has taken  
2 have been ill-thought through and poorly  
3 designed. And so what we have created is a sort  
4 of disastrous hybrid that looks good but actually  
5 isn't, which is a great shame.

6 In terms of other places that have done  
7 well, I think it's too early to assess the  
8 European experience. The European Anti-Money  
9 Laundering Directive Number 4 does require open  
10 registries of beneficial ownership, but it's very  
11 early to -- I mean, it's just this year, so it's  
12 early to say whether that's actually doing anyone  
13 any good, but the movement of travel is  
14 definitely in that direction.

15 Q Mmh.

16 A And that is heartening. But I would -- as I was  
17 saying yesterday, it is very important that the  
18 information filed is verified because otherwise  
19 it's a meaningless reform, because anyone who has  
20 prepared to lie can just avert the laws without  
21 any consequences at all.

22 Q You said the U.S. does poorly on corporate  
23 transparency. What's your take on how the U.S.  
24 does on enforcement?

25 A It's -- the U.S. is very good on enforcement. I  
26 think there are, you know, a number of reasons  
27 for that. One of them is that prosecutors in the  
28 U.S. have an unusual amount of power. You know,  
29 if a prosecutor says to you, you can plead guilty  
30 and get one year or fight the case and get 999  
31 years, it's a strong incentive to go with the  
32 plea. Most countries don't have that system.  
33 You know, I think it has good and bad sides. It  
34 certainly probably -- it makes it great to be a  
35 prosecutor.

36 You know, also, you know, American  
37 prosecutors, it's often a jump-off point for a  
38 political career, and so you attract ambitious,  
39 intelligent, energetic people, which is very  
40 good. So that is not something that, for  
41 example, we have.

42 They also have financial rewards for  
43 whistleblowers, which can be extraordinarily  
44 lucrative. Bradley Birkenfeld, who blew the  
45 whistle on the Swiss banking industry, made, you  
46 know, before tax, a hundred plus million dollars  
47 out of blowing the whistle. You know, that is a

1 strong incentive for people to do the right thing  
2 if they're not perhaps otherwise minded to do so.

3 But again, that is a system that other  
4 countries maybe would have moral qualms about.  
5 So America has made decisions that allow it to  
6 enforce the law in a way other countries don't.  
7 It has greater political will but also has  
8 different legislation that allows it to do so.

9 In Europe, no one is very good. The Dutch  
10 seem to be picking up the pace and doing better  
11 than they were, and there is certainly a lot of  
12 interest in the Netherlands about fighting  
13 financial crime and a lot of, you know, new  
14 efforts by law enforcement that haven't yet borne  
15 fruit but hopefully they will.

16 Q Mm-hmm.

17 A So I would say in Europe, perhaps the Netherlands  
18 is the model to watch. No one else is any good  
19 really. Except for one or two prosecutors in  
20 Spain, no one else in Europe really pays  
21 examination.

22 So yeah, the United States is an outlier  
23 when it comes to enforcement. But I mean, I  
24 think if I were designing a system, which is an  
25 unlikely thing to happen, but if I were, then I  
26 would perhaps combine the American model of  
27 enforcement with the European model of  
28 transparency or the New Zealand model of  
29 transparency. I think with those two combined  
30 you would end up with a very serious contender  
31 for an ideal system.

32 Q Mmh. Good. I'd be interested if you have views  
33 on the geographic targeting orders, which, as I  
34 understand, have been put in by the American  
35 FinCEN, the Financial Crimes Enforcement Network,  
36 with a view to coming to grips with, in  
37 particular, residential real estate.

38 A I think it's a good idea. It seems like a  
39 strange workaround for a problem that could  
40 easily be solved a different way. You know,  
41 they've created this slightly elaborate system of  
42 checking up on the origin of money that is being  
43 spent when they could just enforce corporate  
44 transparency and not have to worry about it. So  
45 -- but, you know, in the absence of corporate  
46 transparency, it's had a strong effect in the  
47 markets where it's been imposed. You know, law

1 enforcement people I know who work in Miami say  
2 it has had an effect in Miami. It hasn't cleaned  
3 the place up but it, you know, has certainly made  
4 some kleptocrats think twice about how the money  
5 gets in there, and anything that does that is  
6 good.

7 So yeah, I think they have been useful and  
8 valuable, but not nearly as valuable as corporate  
9 transparency would be, because that would, you  
10 know, remove the necessity for them altogether.

11 Q Mm-hmm. With respect to international  
12 cooperation, how much do you think that requires  
13 a lot more development and work to be effective?

14 A Yes, an enormous amount more work. It's -- you  
15 know, to be fair, it is very difficult to  
16 achieve, but we are still very bad at it, I think  
17 pretty much everyone is very bad at it. And this  
18 isn't just a question of, you know, say it being  
19 difficult to get evidence out of China and  
20 Russia, though it is. It's also difficult for  
21 western countries to cooperate with each other  
22 straightforwardly. So that is a definite issue,  
23 and one that there isn't a clear solution for  
24 except properly resourcing law enforcement, which  
25 is apparently not something that's easy to do.

26 Q Mm-hmm. And as a last general question from me,  
27 although I should forewarn you we have a number  
28 of participants looking to ask you some questions  
29 as well.

30 But do you have particular -- we sort of  
31 brought you in and taken a great deal of value in  
32 hearing your very international view, but not  
33 putting you forward as an expert on British  
34 Columbia specifically. But with a sense of  
35 issues in our jurisdiction, are there particular  
36 thoughts or suggestions or things that you think  
37 we should be studying as a commission, and for  
38 that matter looking ahead to for policy reforms  
39 here?

40 A Well, I very much regret that I haven't been able  
41 to come to B.C. in person. I was very much  
42 looking forward to it. I have never been to  
43 Canada despite being a Canadian citizen. And  
44 I've seen it from an airplane but never actually  
45 been. So I'm very sorry, and I hope that one day  
46 I'll be able to when -- if this crisis ends.

47 I think that one of the most remarkable

1 aspects of money laundering, the battle against  
2 dirty money, is the general broad scale ignorance  
3 that everyone has about it. If you compare a  
4 similar cause that was taken up around the same  
5 time as money laundering in the 1980s, which was  
6 the battle against deaths on the roads --  
7 internationally, battle against deaths on the  
8 roads became a big issue in the 1980s around the  
9 same time as money laundering did. That has been  
10 an astonishingly successful campaign that has  
11 been studied by governments, by academics, by  
12 industry, and the amount of deaths on the road  
13 has plummeted as a result.

14 Around the same time, people started to be  
15 interested in money laundering, and yet the  
16 amount of money being laundered has soared since  
17 then.

18 You know, if governments actually want to do  
19 something, there is a clear model for how you do  
20 it. You study the problem. You work out what's  
21 going on. You have a joint effort between  
22 academia, industry, and the public sector. And  
23 then when you've worked out what's going on, you  
24 design steps to take. That has never happened  
25 with money laundering. We still have no better  
26 estimates for the volume of money being moved  
27 around the world than were guessed in the 1990s.  
28 It is remarkable how few serious academic  
29 departments there are studying this question,  
30 considering how massive a question it is. It's  
31 extraordinary to me that this isn't being done.

32 So one thing that I would love to see come  
33 out as a recommendation from your Commission --  
34 and I appreciate this is not, you know, the kind  
35 of sexy headline-grabbing recommendation that  
36 will excite the tabloids. But I would love to  
37 see a recommendation for greater genuine research  
38 into what's going on. We have, you know, at the  
39 moment -- like the anecdote of people in the dark  
40 describing an elephant, you know, people sort of  
41 grasping a foot or grasping a trunk here or  
42 there, but no one's turned the light on and said,  
43 wow, look at that, it's an elephant.

44 You know, I think that's a genuine neglected  
45 side of this issue, that part of the reason it's  
46 so hard to do something about it is that we  
47 genuinely don't know what's going on. You know,

1 we have anecdotal evidence. We have detailed  
2 insights into certain aspects.

3 And I think this is particularly serious for  
4 you in B.C. because of the big problem that you  
5 had with money of Chinese origin. China remains  
6 the single most opaque source of kleptocratic  
7 cash anywhere. It remains a massive source of  
8 kleptocratic cash but the most opaque.

9 There is a lot of focus on Russian origin  
10 money. But as a Russian oligarch I quoted in the  
11 article you mentioned earlier that followed the  
12 Salisbury attack told me, he said look what  
13 Russian oligarchs buy. You know, we buy yachts,  
14 we buy mansions, we buy football clubs. These  
15 are toys. They're not strategic assets. We're  
16 just having fun. He said, look at what the  
17 Chinese buy. And then why aren't you worrying  
18 about them? Why are you always worrying about  
19 us?

20 Okay, I mean, he's being self-serving in  
21 saying it, but it's a genuine question. Why do  
22 we focus so much on the Russians? Because  
23 they're easy to focus on. They make it easy for  
24 us. You know, they're like a Bond villain with  
25 the white cap in that swivel chair, you know,  
26 sitting there looking evil. And it makes it easy  
27 to write about. Whereas if someone is invisible  
28 and supremely good at hiding the origin and the  
29 movement of their money, you never even know  
30 they're there.

31 So I think it's an opportunity that you have  
32 in B.C., with this political will that you've  
33 built up and public support, to be genuinely  
34 ground-breaking in studying this movement in a  
35 way that no one else is doing. And I would  
36 absolutely love to see the fruit of what you come  
37 up with.

38 MR. MARTLAND: Well, thank you. I'll conclude on that  
39 note. I'm going to -- I'll just go a little  
40 slowly and deliberately as I start through my  
41 list to see if either of the Province or Canada  
42 wish to ask any questions. My last indication  
43 was they didn't expect they would need to. And I  
44 should advise our Registrar and our staff that  
45 I've added the Society of Notaries Public after  
46 the Law Society for questions. So I don't hear  
47 anything from counsel for the Province or Canada,

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of B.C

1 so I think our first participant is the Law  
2 Society, Ms. Herbst, and then after that, the  
3 Society of Notaries Public.

4 MS. HERBST: Thank you, Mr. Martland. Thank you, Mr.  
5 Commissioner, and hello, Mr. Bullough. As you've  
6 heard, I'm Ludmila Herbst. I'm counsel for one  
7 of the regulators here in western Canada, the Law  
8 Society of British Columbia. And that's among  
9 the participants that you'll hear from in this  
10 inquiry.

11 And as I'm first up today in terms of the  
12 order of participants, counsel asking questions,  
13 I have some questions that aren't specific so  
14 much to law but just to fill in the record a bit  
15 more generally. And so I'll just run through a  
16 few of those.

17  
18 EXAMINATION BY MS. HERBST (LAW SOCIETY OF B.C.):  
19

20 Q Now, I do have some questions on your book,  
21 *Moneyland*, your most recently published book,  
22 which I've read. But before I get to those, I'd  
23 just like to touch briefly on the two other books  
24 that I believe you've had published.

25 A Yes.

26 Q The first of those, as I understand it, is called  
27 *Let Our Fame Be Great: Journeys among the*  
28 *Defiant People of the Caucasus*.

29 A That's correct.

30 Q And that was published in 2010 or so?

31 A Yes, I believe so. Around there.

32 Q The exact date isn't that important. And the  
33 Caucasus region, as I understand it, includes  
34 Chechnya, which is an area of particular interest  
35 to you?

36 A Yes. The Caucasus is the mountain range that  
37 forms the southern border of Russia. That book  
38 specifically deals with the northern Caucasus  
39 region, which is the southern provinces of  
40 Russia, which is an area of great ethnic  
41 diversity and has been an area of great turmoil  
42 for a couple of hundred years.

43 Q Okay. And am I correct that your second book was  
44 *The Last Man in Russia: The Struggle to Save a*  
45 *Dying Nation*?

46 A That is correct.

47 Q And again, roughly, that was published in 2013 or

1 so?

2 A Yeah, something like that.

3 Q All right. And to use the description that you  
4 give in *Moneyland* of the *Last Man* book. It  
5 addressed the ethnic Russians themselves and how  
6 alcoholism and despair were undermining their  
7 continued existence as a nation?

8 A That is correct. The Russians have --  
9 fortunately it is better, slightly better now  
10 than it was. But alcoholism specifically has  
11 caused tremendous damage to the Russian nation by  
12 reducing life expectancy and by lowering the  
13 birthrate. So the Russian population -- their  
14 life expectancy peaked in the 1960s at a time  
15 when it was broadly equivalent to that in many  
16 parts of Europe, but now it is much lower. And  
17 so I set out to try and explain why, at a time  
18 when public health improved so markedly in  
19 Western Europe, it went into reverse in Eastern  
20 Europe. And it was a way of trying to describe  
21 the experience of the ethnic Russian nation when  
22 I had concentrated in my first book on minority  
23 communities within Russia. And so I felt it was  
24 a fair way of trying to redress the balance.

25 Q Got it. And it's told in part, I understand,  
26 with reference to the life of Father Dmitry, an  
27 Orthodox priest?

28 A That's correct. He was a dissident Orthodox  
29 priest whose life quite closely mirrored the  
30 experience of the Russian nation throughout the  
31 20th century.

32 Q Okay. And so *Moneyland* is your third published  
33 book?

34 A Correct.

35 Q Okay. And now, it's not an exhibit in this  
36 proceeding, but just for the record, I'd like to  
37 walk through a few parts of it. Mr. Martland  
38 took you to a page yesterday on Equatorial  
39 Guinea, and --

40 A Yeah.

41 Q -- I'm just going to touch on a few other  
42 chapters and pages. And of course, not  
43 surprisingly -- as a book -- it's broken into  
44 chapters. And one of the things I'd like to do  
45 is cross-reference a bit some of what was  
46 discussed yesterday to some particular chapters.  
47 So Chapter 1, at least in my copy, is called

1 "Aladdin's Cave"?  
2 A And in mine.  
3 Q Excellent. That's a good starting point. So if  
4 you turn to what I believe is page 4, but it's --  
5 I think it'll be an easy question regardless of  
6 the page. The title of the chapter refers to the  
7 fact that you say that the garages at the country  
8 residence of the former Ukrainian president, Mr.  
9 Yanukovych, were an Aladdin's cave of golden  
10 goods, some of them perhaps priceless?  
11 A That's correct. Yeah, it was remarkable.  
12 Q Okay. And Chapter 2 of *Moneyland* is called  
13 "Pirates" --  
14 A Yeah.  
15 Q -- I believe.  
16 A Yes. Yes.  
17 Q Good. We're still on the same page.  
18 A Yeah. I'm slightly nervous because I'm guessing  
19 you have a copy of the Canadian edition and mine  
20 is the UK edition, and there are some small  
21 differences, but I don't think they affect the  
22 titles of the chapters.  
23 Q No. And I have a -- I'm hoping we'll stay  
24 synchronized. I think I have a backup system of  
25 describing things in case we go off. The pirates  
26 in Chapter 2, the title refers to some radio  
27 broadcasters who transmitted pop music from ships  
28 offshore, outside the UK's territorial waters, to  
29 compete with the BBC at one point.  
30 A That's correct. The pirate radio is my way of  
31 introducing the concept of offshore, because they  
32 were also called offshore radio stations because  
33 they were literally outside British territorial  
34 waters. So yeah. But they were called mainly  
35 pirate radio stations colloquially.  
36 Q Okay. And it's in that chapter, in the context  
37 of literally and conceptually being offshore,  
38 that you talk about Eurobonds, which we heard a  
39 bit about yesterday.  
40 A Yes, that's right.  
41 Q And still in that chapter, I'm wondering if you  
42 could turn to what in my edition is page 42.  
43 It's right after you discuss Ian Fraser, one of  
44 the bankers --  
45 A Yeah.  
46 Q -- who was involved in Eurobonds, and then you  
47 talk about, I believe, Uncle Eric Korner.

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of B.C

1 A Yeah.

2 Q And then there's a chapter -- sorry, a paragraph  
3 that starts, "This is the first glimpse of the  
4 tunnel into Moneyland."

5 A Yes. Yeah.

6 Q And you say here that it -- which I think the  
7 tunnel into Moneyland works as follows:

8  
9 ... first, you obtain money (you might have  
10 stolen it, or avoided taxes on it, or simply  
11 earned it); then you hide it; then you spend  
12 it.  
13

14 A Yeah.

15 Q Are those the three sources -- so stealing, tax  
16 avoidance, and regular earnings - of the money  
17 that in your view flow into Moneyland?

18 A Yeah. So the original sources of the wealth in  
19 Moneyland -- I covered two of them yesterday, the  
20 primary ones, which were, inverted commas, the  
21 "Belgian dentists," which are tax dodgers. I  
22 refer to that money in the book as being "naughty  
23 money."

24 Then there is what Ian Fraser referred to as  
25 fallen South American dictators, the kleptocrats,  
26 which I refer to in the book as being "evil  
27 money."

28 And then there was also a smaller group,  
29 which he refers to as money that belonged to  
30 Jewish refugees who had put it in Switzerland  
31 before World War II. It was the smallest amount  
32 of money. That I refer to in the book as being  
33 "scared money."

34 So yes, you know, all of this money seeks to  
35 avoid scrutiny for different reasons, either  
36 because it's illegal or because the people who  
37 own it fear being uncovered or fear being  
38 persecuted.

39 So yes, I mean, the money in *Moneyland*  
40 doesn't necessarily have to be illegitimate. If  
41 a Jewish refugee has put their money in  
42 Switzerland, that's an entirely legitimate thing  
43 to have done. But they would seek scrutiny  
44 just -- seek to avoid scrutiny as much as anyone  
45 else would.

46 Q Okay. And one of the Commission's tasks in this  
47 inquiry, not so much one that the Law Society is

1 involved in, but is looking at issues of  
2 quantification. And you touched on that with Mr.  
3 Martland yesterday and again this morning. And  
4 you have a chapter in the book, Chapter 12,  
5 called "Dark Matter," that I think deals with  
6 that a little bit as well. And if I could just  
7 turn to that briefly. Just, I think it ties  
8 nicely into what we were just discussing. In my  
9 edition it's page 176. But in any event, the  
10 paragraph that I'm interested in is the second  
11 paragraph in Chapter 12.

12 A Uh-huh.

13 Q And it starts with "Because the money..." if  
14 we're on the same --

15 A Hang on. I'm just looking. It won't be exactly  
16 the same but I will -- yes. Yes, I see.

17 Q Okay. Excellent. So I'd just like to see -- I'm  
18 going to read out for the benefit of others a few  
19 sentences, and I'd just like to ask if what I'm  
20 about to read out -- so don't answer until I  
21 finish reading -- is something that remains an  
22 accurate description in your view of some of the  
23 quantification issues. And so as I've got it, it  
24 says:

25  
26 Because the money in Moneyland isn't just  
27 drug money, or stolen money, or bribes; if  
28 it was, the problem would be much easier to  
29 solve. All of that "bad evil" money is  
30 washing around with "bad naughty" money,  
31 which has dodged taxes, or regulations, and  
32 has been stashed offshore to avoid  
33 detection. There's also money that has  
34 flowed out of economies like Russia, China  
35 or Venezuela that isn't the fruit of a  
36 misdeed of any kind, but is instead owned by  
37 people who fear that the government might  
38 take it away from them if they kept it at  
39 home.

40  
41 And, so is that still accurate, in your view, as  
42 a description of some of the quantification  
43 issues that arise in terms of Moneyland and the  
44 flows?

45 A Absolutely, yeah.

46 Q Okay. Now, turning back a bit, more on  
47 housekeeping, yesterday you had described the

- 1 dreadful situation in Ukraine relating to its  
2 healthcare system. And I think the description  
3 isn't confined to this chapter, but there's a  
4 Chapter 7 in your book *Moneyland* called "Cancer,"  
5 and that deals --
- 6 A Yes.
- 7 Q -- with at least part of those issues; is that  
8 right?
- 9 A Yes, it does. Yeah. That specifically addresses  
10 the situation in the Cancer Institute, which  
11 was -- still is -- Ukraine's premier oncological  
12 centre and had a mini-revolution within it that  
13 paralleled the revolution that happened outside  
14 in Ukraine in the years after -- in 2014 to '15.
- 15 Q Okay. And just -- I'm touching on a few chapters  
16 that -- just to put the whole book in context or  
17 at least more of the book on the record. So  
18 Chapter 10 is called "Diplomatic Immunity!"  
19 and --
- 20 A Yeah.
- 21 Q Well, not confined to this, and I've seen this  
22 not just in your book, of course, but in one of  
23 the video presentations that is available from  
24 you online. It's the story, at least in part, of  
25 a supermodel, Christina -- or a retired  
26 supermodel, Christina Estrada, whose billionaire  
27 Saudi husband got himself appointed by St. Lucia  
28 as its ambassador to the International Maritime  
29 Organization in London to try to defeat marital  
30 asset claims is as I understand --
- 31 A Yeah. He was an unusually resourceful  
32 Moneylander, yes.
- 33 Q Okay.
- 34 A May he rest in peace.
- 35 Q And Chapter 13 is called "Nuclear Death Is  
36 Knocking Your Door."
- 37 A Yes.
- 38 Q And that's not -- people who are hearing me may  
39 think I've left out a word there. It's because  
40 you're quoting from a threat on a T-shirt, as I  
41 understand it, that was sent by Andrey Lugovoy to  
42 Boris Berezovsky, who's a Russian oligarch?
- 43 A Yes, that's right. Andrey Lugovoy is one of the  
44 two men who murdered the former Russian secret  
45 policeman, Alexander Litvinenko, in London and  
46 who subsequently sent a T-shirt to Boris  
47 Berezovsky, an oligarch in the UK, which had the

1 words on it "Nuclear death is knocking your  
2 door." I think it was probably an accidental  
3 mistake, but it's -- you know, the threat is  
4 fairly unmistakable, even through the bad  
5 grammar. You know, they'd already killed --  
6 Q Absolutely.  
7 A -- one person with a nuclear poison, you know. A  
8 little threat goes a long way in those  
9 circumstances.  
10 Q Absolutely. And so a good chunk of that chapter  
11 refers to the death of Mr. Litvinenko by polonium  
12 210 poisoning.  
13 A Correct.  
14 Q Okay. And you -- Mr. Bullough, you described  
15 yourself yesterday as by speciality a Russianist.  
16 A Yes.  
17 Q It's fair to say, and I think I'm picking up here  
18 on something that Mr. Martland fairly noted in  
19 the last series of questions in terms of you not  
20 being put forward as an expert on British  
21 Columbia. The focus of your work hasn't been  
22 Canada, per se?  
23 A No. I -- no, not yet.  
24 Q Not yet.  
25 A I'd love to take some time and do that.  
26 Q All right, absolutely. And now I just -- you  
27 haven't suggested otherwise, and I mean  
28 absolutely no disrespect by asking you some  
29 questions to which I think the answer will be no,  
30 but just to wrap up on your background in terms  
31 of education and so on.  
32 You mention in your book *Moneyland* -- and  
33 I'm not suggesting that this is a necessary  
34 degree to have for some of the analysis you  
35 undertake. But you say you're not an economist.  
36 A No.  
37 Q And --  
38 A No.  
39 Q And you're not -- I'm so sorry, Mr. Bullough. I  
40 interrupted you.  
41 A No, no, I'm not an economist and I didn't study  
42 economics at university.  
43 Q Okay. And your degree is a modern history  
44 degree?  
45 A Modern history, yeah. Though in the context of  
46 Oxford University, "modern" is a fairly broad  
47 word. I believe we started in 464.

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1 Q All right, good to know. And I think, flowing  
2 from that, you don't have a law degree?

3 A No. Not yet.

4 Q Okay. And you're not -- I think tying in with  
5 that, you're not yourself a lawyer?

6 A No.

7 Q No? The answer is no?

8 A No.

9 Q Just for the transcript.

10 A No, I'm not.

11 Q No, okay. Well, thank you very much, Mr.  
12 Bullough. Those are my questions.

13 A Thank you.

14 THE COMMISSIONER: Thank you, Ms. Herbst. Is it now  
15 counsel for the Society of Notaries Public, Mr.  
16 Usher, that we're dealing with, Mr. Martland?

17 MR. MARTLAND: Indeed it is, Mr. Commissioner, yes.  
18 Thank you.

19 THE COMMISSIONER: Thank you. Mr. Usher.

20 MR. USHER: Good morning, Commissioner. Mr. Bullough,  
21 thank you for your information so far and taking  
22 our questions.

23

24 EXAMINATION BY MR. USHER:

25

26 Q There's just a few things I'd like to ask in  
27 terms of effective anti-money laundering  
28 strategies. For example, have you seen in your  
29 experience any jurisdictions where foreign  
30 ownership controls of real estate have made a  
31 difference or have been perceived to be a good  
32 and workable solution to money laundering as it  
33 applies to real estate?

34 A I think only in New Zealand. There are other  
35 jurisdictions where there are foreign -- the  
36 controls over foreign ownership of real estate,  
37 such as the island of Jersey in the English  
38 Channel -- that was not brought in as an anti-  
39 money laundering measure. It was more of a  
40 population control measure. I think by accident  
41 that has probably served to exclude a certain  
42 amount of foreign kleptocratic money. But since  
43 their limits are primarily if you can afford it,  
44 you can come in, I don't think the controls have  
45 been very effective.

46 But no, I think New Zealand is the best  
47 example of that.

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1 Q Thank you. Of course, prosecution of money  
2 laundering is notoriously difficult. We've heard  
3 that from a few witnesses. There's sort of  
4 infamous stories of finally getting Al Capone  
5 with tax laws rather than criminal things. Are  
6 you aware of any jurisdiction that is using data  
7 collection and compliance with income and capital  
8 tax laws as a remedy for money laundering?

9 A No, not off the top of my head.

10 Q Okay. An interesting problem, of course, is in  
11 the prosecution. In Canada one of the problems  
12 in prosecution of these crimes are the disclosure  
13 requirements. We had a Supreme Court of Canada  
14 case called *Stinchcombe* which set out the rules  
15 for disclosure, and this has been a significant  
16 problem. I don't know if you're aware of that,  
17 but what do you see as a key problem of law  
18 enforcement and prosecution of these crimes?

19 A I think in most jurisdictions -- and this  
20 probably doesn't apply to the United States, but  
21 in most jurisdictions there is inevitably a  
22 mismatch in resources. Wealthy clients are able  
23 to access their often-frozen assets in order to  
24 pay legal fees. And essentially, since the  
25 assets would be confiscated anyway, there is no  
26 reason for them not to throw as much as possible  
27 at fighting the case.

28 You know, it's unusual for law enforcement  
29 agencies to talk about this on the record because  
30 they like to say they have the resources they  
31 need. But I regularly hear complaints that  
32 they're outgunned by extremely well-resourced  
33 defendants who are able to hire very highly  
34 skilled legal counsel in order to take them on.  
35 So I would say, you know, that resources is a big  
36 issue.

37 And then in a way related to that, a second  
38 problem is attempting to extract evidence from  
39 foreign jurisdictions that are themselves  
40 corrupted, in that it becomes very difficult to  
41 rely on the quality of evidence that is produced  
42 because if a jurisdiction can be condemned as  
43 corrupt, the quality of any evidence that emerges  
44 from it can in turn be condemned as corrupt.

45 A separate but related point is that  
46 evidence can be procured from a corrupted  
47 jurisdiction in order to make a point in a

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1 Western court when that evidence is not actually  
2 true. There was a case in the United Kingdom,  
3 the only case that really related to corrupt  
4 Ukrainian money outside Ukraine. Twenty-three  
5 million U.S. dollars belonging to a former  
6 minister in the Yanukovych government was frozen  
7 in the UK and then was released when the  
8 gentleman in question's lawyers were able to  
9 produce a letter from Ukrainian prosecutors  
10 asserting that he was not suspected of any  
11 crimes. And that wasn't true. He was. But the  
12 letter had been procured somehow in order to make  
13 this case and to unfreeze this money.

14 You know, it is - you know, money laundering  
15 relies on the existence of a predicate offence.  
16 If you can't secure the evidence you need to  
17 prove the existence of a predicate offence, then  
18 obviously the charge of money laundering falls  
19 away as well. And that is, you know, inherent in  
20 the nature of the crime and it's very difficult  
21 really to think of anything you can do about  
22 that.

23 Q Yeah. Thank you. Often this idea that it's been  
24 difficult for police and investigative bodies to  
25 make headway, and yet there seems to be this  
26 expectation that sort of front-line workers --  
27 you know, the clerk in the bank, the clerk in the  
28 solicitor's office -- will somehow then can be  
29 our bulwark and front line against money  
30 laundering, that they can, for example, come to  
31 conclusions about predicate offences. So there's  
32 a giant regulatory system that has grown up  
33 around money laundering. Do you have any sense  
34 of -- comments on that? Because the regulatory  
35 compliance schemes are massive now. How's that  
36 going?

37 A I think it's becoming very ironic. I think it  
38 can be very ironic that the system that is  
39 designed essentially to generate information for  
40 law enforcement agencies, you know, this, as you  
41 say, this giant compliance apparatus that has  
42 grown up around the financial system, is  
43 essentially to a large extent being run by former  
44 law enforcement agencies who are then headhunted  
45 by financial institutions to do this work. So  
46 they generate this vast volume of raw  
47 intelligence and send it to law enforcement

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1 agencies who no longer have any experienced  
2 professionals capable of dealing with it because  
3 all of their experienced professionals have been  
4 poached to work for the financial system.

5 You know, I don't know -- I think this is  
6 like the old joke about asking for directions: I  
7 don't think anyone would start from here. You  
8 know, I think that they -- it's a very badly  
9 thought through intervention, particularly  
10 coupled with, you know, long years of austerity  
11 and limited pay rises in the public sector. You  
12 know, inevitably many, you know, skilled  
13 financial investigators from the public sector  
14 have gone to work for the private sector and  
15 therefore deprived the public sector of  
16 essentially being able to do anything with this  
17 raw intelligence that's been given to it.

18 So no. I think that -- obviously I think  
19 that the private sector, the financial sector,  
20 needed to be better regulated, but I don't think  
21 it should have been regulated at the cost of  
22 actually doing anything about financial crime,  
23 which is essentially what's happened.

24 Q Yeah. Some have suggested that sometimes, for  
25 example, filing these reports is more guilt-  
26 washing, or the transactions, that the focus on  
27 regulatory compliance is what everybody's focused  
28 on, why they're perhaps hiring the folks you've  
29 just mentioned, because the main concern is about  
30 regulatory compliance, not about the underlying  
31 problem.

32 A Yeah, absolutely. I think this is a primary  
33 issue with the entire debate around money  
34 laundering is that it focuses almost exclusively  
35 on process and not on the outcome. You know, if  
36 you -- and this seems to have become so standard  
37 that it's not even remarked upon that government  
38 ministers or officials will welcome the fact that  
39 475,000 suspicious activity reports had been  
40 filed, and say that this shows how seriously  
41 we're taking financial crime, without in any way  
42 looking at what results have come from those  
43 reports -- whether any results have come from  
44 those reports.

45 To my mind, it's akin to a hospital boasting  
46 about doing 475,000 operations without checking  
47 how many of the patients have survived. You

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1 know, it's an extraordinary state of affairs.  
2 And sadly, I think this goes deep into the heart  
3 of the entire money laundering -- what you might  
4 call the anti- money laundering industry. The  
5 Financial Action Task Force, when it assesses the  
6 compliance of economies with its recommendations,  
7 invariably assesses the process, not the outcome.  
8 You know, there's no -- and this goes back to  
9 what I was saying earlier about the need to have  
10 a detailed study of the phenomenon of money  
11 laundering and the volumes of money being moved  
12 and so on, is that because we don't have that  
13 kind of -- those kind of metrics. We're, instead  
14 we're looking at what we can measure, which is  
15 things like the volume of suspicious activity  
16 reports, which is in no way a proxy for the  
17 amount of illegal money being moved. As you say,  
18 it's more of a proxy for to what extent people  
19 want to cover their -- you know -- well -- you  
20 know what I'm saying.

21 Q Yeah. Thank you. Just looking at that, there's  
22 [indiscernible] regulatory burden in this  
23 reporting. Are you aware in your experience of  
24 any problems with retribution by money launderers  
25 when they know, when they learn about suspicious  
26 transaction reporting? I know sometimes you hear  
27 the people are -- here we are, the person at the  
28 front line needing to make these reports to  
29 either make or refuse a transaction -- has that  
30 been a problem in the whole money laundering  
31 world?

32 A I have heard about it. I was speaking to a  
33 whistleblower just last week who blew the whistle  
34 on quite a significant financial crime and  
35 involving the former Soviet Union several years  
36 ago, and is still living in an undisclosed  
37 location out of fear for his safety. You know,  
38 you are dealing with the assets of some very  
39 nasty people who -- you know, these are bankers  
40 for the mob, really, in sort of a colloquial  
41 sense, and inevitably, therefore, anyone who  
42 endangers their business model, will take action.

43 So yes, I do hear these cases. Not in a --  
44 just in an anecdotal way. So yeah, it's  
45 definitely a risky thing to do. And it doesn't  
46 really surprise me that there are so few  
47 whistleblower complaints because outside the

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Notaries Public of B.C.

1 United States, whistleblowers aren't really  
2 protected or rewarded particularly for doing what  
3 they do. And I think that without  
4 whistleblowers, we're never really going to get  
5 anywhere.

6 Q Thank you. One issue that comes up is a  
7 conflict, or an apparent conflict, between  
8 privacy and human rights versus all of the rules  
9 of money laundering. Do you have any sense of  
10 both positive and negative experience with that  
11 around the world, finding that -- the apparent  
12 need to find some balance between privacy and  
13 individual human rights and the disclosure,  
14 invasive perhaps -- again, that's one way to look  
15 at -- of the rules around money laundering?

16 A I agree that is definitely an issue. You know,  
17 we saw during the Panama Papers series of  
18 articles a number of Hollywood celebrities or  
19 other well-known people had made use of shell  
20 companies in order to hide their -- the location  
21 of their property for -- with entirely legitimate  
22 concerns about their own security. You know,  
23 that is undeniably a concern and a reason why  
24 full transparency can be a bad thing.

25 However, I think we need to divorce the  
26 concern about legitimate confidentiality for  
27 people with a threat to their own safety from the  
28 question of shell companies. A shell company is  
29 a structure for limiting your liability in a  
30 business venture. It is not a structure for  
31 providing anonymity in property ownership.

32 If we wish to provide people with anonymity  
33 in property ownership -- and by all means, that  
34 would be fine. That's not necessarily a bad  
35 thing if people need it -- then that should be  
36 provided deliberately and intentionally with a  
37 specifically designed mechanism. So people  
38 who -- anyone who needs anonymity should be able  
39 to get it, not just people who can afford it. We  
40 have created a system whereby you can effectively  
41 gain anonymity by buying property via a shell  
42 company, but that is an expensive way of doing  
43 it. Whereas, you know, there's no reason why a  
44 Hollywood star should have access to anonymity,  
45 but, for example, an abused wife shouldn't. They  
46 should all have access to the same mechanisms to  
47 protect their identity from discovery if that is



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1 just pause to see if there's anything more there.

2 THE COMMISSIONER: Thank you.

3 MR. MARTLAND: But assuming there's no -- sorry, go  
4 ahead.

5 MS. MAINVILLE: I was just going to confirm that, on  
6 behalf of Mr. Kroeker, we no longer have any  
7 questions. Thank you.

8 MR. MARTLAND: That's appreciated. Thank you.

9 MR. WEAVER: That's the same for the BCREA, Mr.  
10 Martland.

11 MR. MARTLAND: All right. And for the BCREA, the Real  
12 Estate Association, as well. Thank you, Mr.  
13 Weaver. Mr. Smart has unmuted himself so I don't  
14 know if I'm reading too much into that.

15 MR. SMART: No. BCLC has no questions, Mr. Martland.  
16 Thank you.

17 MR. MARTLAND: All right. And so next I have counsel  
18 for the Civil Liberties Association, Ms. Lapper.  
19 And just for the sake of everyone's benefit, next  
20 on deck, Mr. Westell and then Mr. Comeau.

21 THE COMMISSIONER: Thank you. Ms. Lapper.

22 MS. LAPPER: Thanks, Mr. Commissioner.

23

24 EXAMINATION BY MS. LAPPER:

25

26 Q Mr. Bullough, I just have a couple of questions  
27 for you. I'm counsel with the B.C. Civil  
28 Liberties Association. We are one of the oldest  
29 and most active civil liberties organizations in  
30 Canada.

31 In your work and over the course of your  
32 evidence before the Commission, you've detailed  
33 some pretty extraordinary instances of money  
34 laundering and financial crime. But you would  
35 agree with me that each of the instances you've  
36 discussed have been committed by a small segment  
37 of the population? Yesterday in your evidence  
38 you used the phrase "a committed minority,"  
39 mostly wealthy elites and kleptocrats. Is that  
40 fair?

41 A Absolutely. Money laundering is of necessity a  
42 minority interest crime because most people  
43 aren't rich enough to afford it.

44 Q So you would agree then that the majority of  
45 everyday ordinary citizens are not generally  
46 engaged in money laundering and the types of  
47 financial crimes you've described?

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- 1 A I suppose it depends what you mean by engaged.  
2 No, they are not engaged in committing money  
3 laundering, but they are certainly affected by  
4 it, you know, in the same way that a minority of  
5 people might be engaged in speeding, going at  
6 excessive speeds in cars, everyone else is  
7 affected by it. Money laundering, though a crime  
8 that is only -- and only can be afforded by a  
9 small minority of people, is something that by  
10 its very essence deprives other people of the  
11 wealth that they should have access to.
- 12 Q Great. And the solutions you've proposed, in  
13 particular the increased transparency of  
14 corporate ownership, those types of policies  
15 would apply equally to all citizens so that the  
16 wealthy elites and the kleptocrats and the  
17 ordinary law-abiding citizens alike?
- 18 A Yes. Though with the sole proviso, as I said  
19 earlier, that I think it would be important to  
20 bring in a form of protection for information for  
21 people who can show that it would be a risk to  
22 their security if that information were  
23 published. Obvious examples would be, you know,  
24 Hollywood stars or women at risk of abuse from an  
25 ex-husband, for example, or -- you know, I mean  
26 the potential examples are many, but I think the  
27 point is clear.
- 28 Q Yes. So you have anticipated my next question,  
29 which was to pick up on the line of questioning  
30 that Mr. Usher for the Notaries Public had taken  
31 you to with respect to privacy and human rights.  
32 What I wanted to do is sort of point to some of  
33 the examples that you give in your book,  
34 *Moneyland*, where you discuss, for example, an  
35 example Ms. Herbst took you to earlier, which is  
36 European Jews who were persecuted during the  
37 Holocaust hiding their money from Nazis. And  
38 then toward the end of your book, in the final  
39 chapter in my edition, which is called "Standing  
40 Up to Moneyland," you give a series of examples,  
41 some of which you've just touched on, those at  
42 risk of stalking, political refugees, children  
43 being some others that I think may not have been  
44 mentioned.
- 45 A Yeah.
- 46 Q And you argue that it would be perfectly  
47 reasonable to prevent the details of people with

1 little legitimate need for anonymity from being  
2 published in open registers. So, notwithstanding  
3 these sort of egregious examples of money  
4 laundering that you've described and uncovered in  
5 your work, it remains your position that privacy  
6 and the privacy of those with legitimate and  
7 compelling reasons to protect anonymity must be  
8 protected in any sort of solution to combat  
9 financial crime?

10 A Yes, of course. And I'd like to point out that  
11 I'm not talking about just publishing everyone's  
12 addresses in an open registry. This isn't just a  
13 random place where you can find out where anyone  
14 lives. This is a registry of beneficial  
15 ownership of corporations, corporations which  
16 exist to limit everyone's liability, essentially  
17 to provide insurance for entrepreneurs guaranteed  
18 by everyone else in society. So if everyone in  
19 society is prepared to take -- assume a financial  
20 risk on behalf of an entrepreneur, in return the  
21 entrepreneur should be able to provide details  
22 about themselves. So yeah, I'm not saying that  
23 all details about someone's bank balance, you  
24 know, or their favourite hobbies should be in an  
25 open register. This is, if society is doing  
26 something for you, you need to do something back.  
27 I mean, this is in the nature of limited  
28 companies that they are supposed to publish  
29 reliable accounts regularly and so on. This is  
30 part of what they do. All I'm doing is extending  
31 that principle to state that they should also be  
32 publishing reliable ownership information.

33 But yes, I agree, there are categories of  
34 individuals who need to have their identities  
35 protected for their own security. That should be  
36 something that should be available to everyone,  
37 irrespective of their ability to afford it. At  
38 the moment, that ability is only provided to  
39 people who can afford to structure their assets  
40 in elaborate ways via offshore corporate  
41 structures.

42 Q So do you have any examples that you've uncovered  
43 in your work of jurisdictions where you think the  
44 protection of privacy is done especially well or  
45 is appropriately balanced with a move toward  
46 greater transparency of corporate ownership?

47 A I regret to say I don't. I would say, in

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1           general, if you are able to afford it, privacy is  
2           very well balanced everywhere -- sorry, very well  
3           provided everywhere. If you are not, then it  
4           isn't. So I'm afraid I don't know anywhere.  
5           There may be places, but if there are, then I  
6           don't know them.

7           MS. LAPPER: Thank you, Mr. Bullough. Those are my  
8           questions.

9           THE COMMISSIONER: Thank you, Ms. Lapper. And now Mr.  
10          Westell for the Criminal --

11          MR. WESTELL: -- Defence Advocacy Society. Thank you  
12          very much, Mr. Commissioner. And thank you, Mr.  
13          Bullough.

14

15          EXAMINATION BY MR. WESTELL:

16

17          Q       I want to return to something that you said in  
18          your testimony when being asked some questions by  
19          Mr. Martland earlier. You talked about -- you  
20          were along the point of the ideal system being a  
21          combination perhaps of the European and American  
22          systems in the sense that the Americans seem to  
23          have it right, in your view, when it comes to  
24          enforcement and the Europeans seem to have it  
25          right -- Western Europeans, that is, forgive  
26          me -- with respect to transparency. Did I --  
27          have, have I summarized what your claim was there  
28          correctly?

29          A       That's correct. Though, I mean, I'm not sure I'd  
30          say entirely Western Europeans. Ukraine also has  
31          an open beneficial ownership registry. So it is  
32          an idea that's spreading also in the east of the  
33          continent. And I mean no disrespect by saying  
34          that to Canada. I'm just not sufficiently aware  
35          of the Canadian system to say which aspects of  
36          yours I would borrow. But I mean, I just happen  
37          to know more about the U.S. and EU models.

38          Q       Of course. And I want to focus more with you now  
39          just on the part of that comment about  
40          enforcement. And you had, in particular,  
41          highlighted the dynamic that -- for example, when  
42          someone is charged with a money laundering  
43          related offence or many other kinds of offences,  
44          in the American system they are often offered an  
45          opportunity to plead guilty for a very low  
46          sentence, or run a trial, take their chances on  
47          facing an extremely long sentence. And quite

- 1           literally sometimes there's a sentence that could  
2           be longer than their lifetime. Do I have that  
3           right?
- 4        A     Yeah. I'm not saying that that's something I  
5           approve of. I think that that's absurd. But I  
6           do think that more rigorous enforcement is more  
7           what I was arguing for. Yeah, I think the idea  
8           of a 999-year spell -- spell in prison is absurd.  
9           I don't understand why any country would do that.
- 10       Q     Sure. But just stepping back from the completely  
11           absurd for a moment, and just the dynamic of sort  
12           of leveraging guilty pleas in some way by taking  
13           disproportionate positions based on whether or  
14           not someone takes something to trial, I take it  
15           that -- and I appreciate that you're not holding  
16           yourself out to be any kind of a legal expert or  
17           anything else, but a journalist with lots of  
18           experience in this area, and I'm only asking  
19           because it was a comment that you had made. You  
20           can appreciate how leveraging of that style can  
21           be problematic in some ways, correct?
- 22       A     I -- I do appreciate that. I think that places  
23           with an overmighty prosecution system -- I can't  
24           remember the adjective -- can cause all sorts of  
25           curious effects. But I think it also can be  
26           useful when investigating crimes of this nature,  
27           organized criminal groups in general, because  
28           what you're really trying to get to is the people  
29           at the top of the pyramid.
- 30       Q     Right.
- 31       A     And if you can essentially hold out the promise  
32           of lenient treatment for people at the bottom of  
33           the pyramid, it allows you to work your way up by  
34           turning witnesses. And this is something, I  
35           would argue, that American prosecutors are very  
36           good at. Whether they're very good at that  
37           because of the nature of the powers they have or  
38           whether they're good at that because they are --  
39           you know, very gifted and skilled individuals, I  
40           don't know. It's probably a bit of both.
- 41           But I do think they have shown remarkable  
42           success when it comes to breaking open organized  
43           crime groups. And since money laundering is an  
44           organized criminal activity, I think that's  
45           something that's worth looking at.
- 46       Q     Right. And so I'm not -- I'm not meaning to be  
47           overly attacking here, but I just want to make

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- 1           some -- draw some distinctions and see if you  
2           agree with them. I think the distinction that  
3           you've -- that you were specifically drawing  
4           attention to here is the idea that it can be  
5           useful -- this is a proposition I don't dispute,  
6           by the way - in -- in fighting organized crime  
7           to, in the vernacular, flip those on the bottom,  
8           offer them some incentives in terms of shorter  
9           sentences perhaps, to testify against those that  
10          are higher up the chain of command in these  
11          organizations. Is that sort of what you're  
12          getting at?
- 13         A     Yeah, I think that's right. Yeah.
- 14         Q     Yeah. I mean, I want to draw a distinction  
15               between -- and just find out if you can  
16               appreciate the distinction between -- so  
17               certainly there's that dynamic, that specific  
18               dynamic of offering incentives for those to  
19               cooperate. And, before I draw the distinction,  
20               you can appreciate how important it is in that  
21               circumstance that we not -- that the justice  
22               system not provide incentives that incentivize  
23               those to give false information anyway in order  
24               to save their own hides, correct? [indiscernible  
25               - overlapping speakers]
- 26         A     Yeah.
- 27         Q     But I want to draw out -- you know, just because  
28               the comment you made earlier was a little bit  
29               broader than the specifics of turning people  
30               informant or turning people cooperating witness,  
31               I just want to make sure that you're with me in  
32               the distinction between -- or least seeing the  
33               problematic aspect of if we say to offenders, you  
34               know, you can go to trial and risk an extremely  
35               long sentence, or plead guilty and get something  
36               much more moderate, you can see how that could  
37               provide a risk of wrongful conviction for those  
38               who simply want to take responsibility just in  
39               order to mitigate risk of a long sentence,  
40               correct?
- 41         A     Absolutely. Of course. But I think we need to  
42               recognize that there are, you know, a number of  
43               suboptimal options here.
- 44         Q     Of course.
- 45         A     You know, when you're dealing with powerful and  
46               violent organized criminal groups, it is always  
47               going to be difficult to incentivize members of

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1           those groups to give evidence against the people  
2           who are higher up in the group. And we're  
3           talking about -- you know, if you're talking  
4           about, say, powerful Russian interests or Chinese  
5           interests, these are - these are the most potent  
6           criminal groups in the world. So in that case,  
7           you know, it's always going to be difficult. You  
8           know, I think that -- you know, civil liberties  
9           advocates in the United States have plenty of  
10          issues with the American law enforcement system,  
11          quite rightly. But I think that a system with  
12          rigorous oversight that allows or that helps  
13          encourage underlings, as it were, in criminal  
14          groups to give evidence on a whole conspiracy is  
15          crucial. I mean, everyone I've spoken to in the  
16          United States who's been involved in major  
17          kleptocracy cases has said that without testimony  
18          from insiders, they would never have got  
19          anywhere. And that means that you do end up  
20          having to break bread with pretty unsavoury  
21          individuals because, you know --

22          Q        So --

23          A        -- of necessity to people who will be helping you  
24                   in your investigation are not the kind of people  
25                   that you'd really particularly want to sit next  
26                   to in church, you know.

27          Q        Right. And as a defence counsel organization,  
28                   I'm certainly -- representing one, I'm not -- I  
29                   myself have represented accused persons that have  
30                   cooperated against others, and I've represented  
31                   accused persons that have been convicted largely  
32                   because someone else turned state's evidence.  
33                   I'm not -- I don't want to get into an argument  
34                   about whether or not that's a valid law  
35                   enforcement technique because I don't dispute  
36                   that in any way and neither does our  
37                   organization.

38                   The question is really -- I just want to  
39                   highlight the dynamic that overly aggressive  
40                   sentencing positions based on -- merely on the  
41                   fact that an accused person has decided to  
42                   exercise their right to trial, you can see how  
43                   that in and of itself is problematic. Putting  
44                   aside whether or not they provide utility around  
45                   cooperating, just in terms of leveraging them to  
46                   say, look, I didn't do this, but I'm not going to  
47                   risk a 99-year sentence. I'll go plead guilty to

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- 1           it even though I wasn't involved just because I  
2           want to see my kids again. Like you can  
3           appreciate -- you know, perhaps that's an extreme  
4           example, but you can appreciate how that -- we  
5           don't want to undermine the right of free  
6           citizens to exercise their right to trial for  
7           these offences or any other offences for that  
8           matter, correct?
- 9           A    Absolutely. I totally understand what you're  
10           saying. I mean, I suppose, to be honest, my  
11           viewpoint may be skewed -- or possibly, not  
12           skewed, I suppose -- maybe I give more weight to  
13           the interests of the victims of corruption whose  
14           interests are not considered at any point in  
15           these situations. You know, people like, for  
16           example, children who want treatment in a  
17           Ukrainian hospital but can't because all the  
18           money has been stolen and spent on top end real  
19           estate in London. If a lawyer has bought that  
20           property on behalf of a Ukrainian health  
21           minister, I don't really care about their  
22           interests. To my mind they've committed an  
23           appalling crime and --
- 24           Q    Mmh.
- 25           A    -- and they deserve to be in prison. So you  
26           know, that's all I'm interested in and --
- 27           Q    Yes.
- 28           A    So I suppose -- I mean, were I -- had I  
29           admittedly a better understanding of the legal  
30           system, it's possible I would see significant  
31           issues with my rather broad, sweeping statements.  
32           [indiscernible - overlapping speakers]
- 33           Q    I'm certainly not -- sorry to interrupt you. I'm  
34           certainly not - [indiscernible - overlapping  
35           speakers]
- 36           A    No, no -- one of the joys of being a journalist,  
37           I believe there was a British prime minister who  
38           referred to journalists as having power without  
39           responsibility. It's -- you know, I believe he  
40           called it the prerogative of the harlot  
41           throughout history. You know, it's -- it's a fun  
42           place to be, but I don't in any way hold myself  
43           up as an expert on the legal system and I  
44           recognize, you're absolutely right, that there  
45           are many issues in the American legal system --  
46           many of which are being demonstrated daily on the  
47           streets at the moment in America -- that are

- 1 definitely not ideal. You're absolutely right.  
2 Q Well, I certainly didn't mean to attack you or,  
3 to clarify, to suggest that you needed to be an  
4 expert in all things legal to be participating  
5 here. I just wanted to provide sort of some  
6 clarifying distinctions and I deal with them, and  
7 you gave very fair answers with respect to those.  
8 A [indiscernible]  
9 Q Now, a few other things. With respect to the  
10 question of anecdotal accounts that you've  
11 received about law enforcement writ large feeling  
12 -- or perceiving themselves to be outgunned by  
13 the other side. I take it that you can't  
14 disclose those anecdotal remarks, but I take it  
15 that none of those remarks were from Canadian law  
16 enforcement officials, correct?  
17 A No, I certainly don't think so. I can't think of  
18 anyone who said that. Primarily that would be  
19 European agencies, in which I include Britain  
20 despite recent political events. I don't tend to  
21 hear that so much from Americans. But yeah,  
22 mainly Europeans.  
23 Q I understand. And just -- I wanted to just --  
24 and I don't need to take you there in the book.  
25 But you deal within your book-- a particular law  
26 enforcement officer named -- is it John Tolen for  
27 the department of --  
28 A Tobon, in Miami, yeah.  
29 Q Yes. And he is with the Department of Homeland  
30 Security. You deal with him at length. And his  
31 job -- a lot of what he does or was doing at the  
32 time you were dealing with him had to do with --  
33 really with the very specific and specialized  
34 work of uncovering and undoing and enforcing the  
35 law with respect to money launderers, correct?  
36 A Correct, yeah. I mean, he -- Miami, it's no  
37 secret, is a major magnet for money, from --  
38 specifically from South America but from -- more  
39 widely.  
40 Q And -- and so -- this is an obvious question, but  
41 he's -- this is a very specialized form of  
42 policing that he's engaged in. This is not your  
43 average police officer, correct?  
44 A Yeah. That is correct, yeah. He -- he's a --  
45 he's actually -- now he has a job as a lecturer  
46 in a law department. He's a very educated guy  
47 and very -- yeah, he's very intellectual with it.

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- 1 Q And sort of connecting a couple of different  
2 points, you talked about, you know, there's money  
3 laundering and there's the predicate offences  
4 that help -- the cause and effect of money  
5 laundering, and law enforcement, I take it you  
6 agree, should be focused on the predicate  
7 offences and the attempts to money launder the  
8 proceeds of that crime that follow it, correct?
- 9 A Yeah. I mean, ideally. Though obviously that's  
10 difficult when the two occur in two different  
11 jurisdictions or in many different jurisdictions.
- 12 Q All right. But I mean, is it fair to say -- and  
13 this is a fairly broad point -- that, you know,  
14 in terms of the fight against money laundering,  
15 one big piece of the puzzle would -- for there to  
16 be more resources for law enforcement agencies  
17 and more training for law enforcement agencies so  
18 that we have more -- the public can rely on more  
19 officers like Mr. Tobon, who -- have the specific  
20 skills to help uncover this stuff more  
21 effectively.
- 22 A Well, I don't know. I mean, John Tobon himself  
23 told me that if there were true transparency of  
24 corporate ownership, it would save him about half  
25 of his time.
- 26 Q Right.
- 27 A So in a way, if -- if some of the interventions I  
28 mentioned earlier about transparency of corporate  
29 ownership were brought in, you wouldn't need more  
30 officers because you would immediately make them  
31 twice as efficient. So I think that -- that law  
32 enforcement officers are made -- their job is  
33 made needlessly difficult by the fact it's so  
34 hard to discover who owns things. You know, the  
35 fact that -- that if he's investigating ownership  
36 of a -- of a property just a couple of miles away  
37 from his office in Miami, and yet in order to  
38 find out who owns it he has to write letters to  
39 the Marshall Islands, the Seychelles, St. Kitts  
40 and Nevis, Panama, and the UK, then, you know,  
41 that's a pretty peculiar state of affairs. You  
42 know -- and[indiscernible]-- and he and many  
43 other law enforcement officers I speak to find it  
44 extremely frustrating. You know, I'm not in any  
45 way suggesting that U.S. corporate registries are  
46 any better, they are not. But you know, I was  
47 just plucking out some possible examples of ones

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1 that might be used by criminals.

2 Q Are you of the view, then, that additional -- I  
3 take it that regardless of that, and I take your  
4 point, but regardless -- I take it it's your view  
5 that more training -- more specialized training  
6 and more resources for this type of policing -- I  
7 take it it's your view that that would certainly  
8 help the fight.

9 A Oh, yeah. I mean, absolutely. I mean, you know,  
10 I think that the two go together, you know. We  
11 need greater transparency, better regulation of  
12 the regulated sectors, and also better resources  
13 for -- for law enforcement agencies, you know, in  
14 the broader sense, for which I include financial  
15 intelligence units and everything. But yes, you  
16 know, better training for police officers and  
17 better salaries for police officers so they can  
18 retain their staff as well would be -- would be  
19 extremely useful. You know, there's been a lot  
20 of expertise lost in the last years, and we need  
21 to try and rebuild that.

22 MR. WESTELL: Of course. Thank you very much, Mr.  
23 Bullough. Those are my only questions.

24 A Thank you.

25 THE COMMISSIONER: Thank you, Mr. Westell. And now I  
26 think, if I'm not mistaken, Mr. Comeau for the  
27 Transparency International Coalition?

28 MR. MARTLAND: And yes, Mr. Commissioner, Mr. Comeau  
29 hasn't appeared as counsel before, but from my  
30 point of view it's a happy development that he's  
31 now able to act as counsel, as I understand, and  
32 so I'll allow him to introduce himself and then  
33 he's asking questions for the Coalition. It's  
34 the last participant today. Thank you.

35 THE COMMISSIONER: Thank you. Yes, Mr. Comeau.

36 MR. COMEAU: Thank you. Can you hear me okay?

37 A Yes, I can.

38 MR. COMEAU: Excellent.

39  
40 EXAMINATION BY MR. COMEAU:

41  
42 Q First I'd like to thank the Commission for the  
43 opportunity to speak and pose some questions for  
44 Mr. Bullough. I'm here today on behalf of  
45 Canadians for Tax Fairness, for Transparency  
46 International Canada, and Publish What You Pay.  
47 And so I'd like to first start by thanking Mr.

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1 Bullough for writing his book, *Moneyland*. I read  
2 it, oh, about six months ago. And what I  
3 particularly liked about the book was that you  
4 were talking about complex matters in a way in  
5 which the ordinary guy in the street could  
6 understand. And I believe that's one of the  
7 biggest problems that we have in trying to get  
8 the public, indeed even regulators, politicians,  
9 to understand the problem of money laundering is  
10 it's complex and it takes a long time to go  
11 through each of the parts. So thank you very  
12 much for doing that.

13 I'd like to ask you a number of questions so  
14 that maybe we can bring those parts out in a way  
15 that the ordinary guy on the street could  
16 understand it. I really appreciate your  
17 expertise in that.

18 When we're talking about expertise, I was  
19 smiling earlier when people were talking about  
20 you're not a lawyer or you're not an economist.  
21 There was a head of the business school at  
22 Western University where I went, and he would  
23 start his year by saying to all these new  
24 students that really education is just a  
25 condensed form of experience and he said, so our  
26 goal is, in the two years that you're here during  
27 your MBA, you will in fact gain experience  
28 equivalent to maybe five or 10 years of someone  
29 who's been out working in the field. And he  
30 said, but it won't even be as good as the  
31 experience that they have because a hands-on  
32 experience is more than reading it out of the  
33 book. So keep that in context the next time you  
34 walk in with your degree of an MBA with a guy  
35 sitting across from you who's been doing it for  
36 10 or more years. He knows a hell of a lot more  
37 that you do, and you can learn from him.

38 So thank you for bringing your expertise  
39 here today.

40 So let's begin with a number of questions,  
41 Mr. Bullough. Canada has one of the lowest rates  
42 of crime in the world. Doesn't that suggest that  
43 we likely have one of the lowest rates of money  
44 laundering?

45 A No, it doesn't suggest that at all. In fact, it  
46 suggests that Canada is the kind of place that a  
47 kleptocrat would love to put their money. If

1           you've --

2           Q     Why is that?

3           A     Well, if you've stolen a lot of money, then you  
4                are even more aware than most that any wealth  
5                that you possess can be stolen by other people.  
6                So if you wish to stash it somewhere where it  
7                will be safe, you will look around the world for  
8                somewhere with an efficient police system, an  
9                honest and efficient court system, and a strong  
10               rule of law, like Canada. There's a good reason  
11               why kleptocrats like putting their money in  
12               places like Canada, the UK, or the United States.  
13               It's for the same reason that everyone likes  
14               putting their money in these countries, because  
15               if you put them here, it's safe.

16          Q     That's a terrific point. In fact, isn't Canada  
17                and Western liberal democracies with a strong  
18                rule of law, particularly attractive to those  
19                criminals from authoritarian regimes, from  
20                kleptocracies, from corrupt jurisdictions in  
21                general, because they've always had that risk  
22                that someone closer to power can arbitrarily  
23                confiscate those assets? And so that's always  
24                existed. But now, the last 15 years, there's  
25                been this explosion, or at least perceived  
26                explosion, of money laundering in Western liberal  
27                democracies. Is it your understanding that  
28                globalization of our financial and commercial  
29                markets have provided, in fact supercharged, the  
30                ability of those persons in foreign countries,  
31                particularly corrupt jurisdictions, to greatly  
32                reduce that risk of arbitrary confiscation by  
33                sending their money to countries like Canada with  
34                a strong rule of law?

35          A     Absolutely. The increasing openness of the world  
36                economy, the increasing integration of developing  
37                countries into the globalized economy, has made  
38                it much simpler for corrupt officials, for people  
39                determined to abuse their power, to move their  
40                money out of their countries and to access the  
41                services of people in your country or in mine who  
42                are prepared to help them wash the taint off that  
43                money and put it in a safe asset, such as  
44                property or fine art.

45                So yes, it is -- you know, the globalization  
46                -- it means the increasing integration of the  
47                world economy, and the more integrated it is, the

1 easier it is to move money around, and therefore  
2 the easier it is to hide the origins of stolen  
3 money.

4 Q So we -- not only by having strong rule of law  
5 here in Canada, we've provided those  
6 kleptocracies, corrupt regimes, which just my  
7 rough look at GDP of the world and a list of  
8 those countries, is about half of the world with  
9 corrupt regimes. Particularly if you add in  
10 countries with currency restrictions, it's more  
11 than half of the world. And so they have a  
12 strong incentive to send their money to Western  
13 liberal democracies. They don't have a strong  
14 incentive to send it to other corrupt regimes  
15 because they don't get rid of that risk of  
16 arbitrary confiscation.

17 So they're sending it [overlapping  
18 speakers]over to Western liberal democracies,  
19 correct?

20 A Yeah, that's absolutely right. Yeah.

21 Q And the Western liberal democracies, if you're a  
22 money launderer in the U.S., Canada, Australia,  
23 you don't have a strong incentive to send it over  
24 to Nigeria or Pakistan or a kleptocracy because  
25 now you've just increased your risk, your risk of  
26 arbitrary confiscation. So if I get that right,  
27 you've got half the world from corrupt regimes,  
28 strong incentive to send it to Western liberal  
29 democracies, and the other half of the world, the  
30 crooks in the Western liberal democracies, a  
31 strong incentive to keep it in Western liberal  
32 democracies.

33 A Yeah, that's right.

34 Q So there's two groups. It's like everyone in the  
35 world has an incentive to have their money  
36 laundered in Western liberal democracies.

37 When they're doing that, there's one other  
38 risk that they have. In fact, I'd argue it's the  
39 number one risk that money launderers seek to  
40 reduce, and that's the risk of getting caught.  
41 It's the whole reason they launder their money.  
42 So is it not the case that if they're going to  
43 pick a Western liberal democracy in which to hide  
44 their money, they're going to pick one of the  
45 ones with the weakest anti-money laundering laws?

46 A I mean, it will be one of the factors they would  
47 choose, but not the only one. I mean, if you --

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1 Q That's true.

2 A -- were to choose a Western country with the  
3 weakest anti-money laundering laws, you might end  
4 up with a place without any nice hotels, you  
5 know, or any good restaurants. I mean, it may  
6 gain those things quite quickly if the money  
7 starts going there. But you know, you also want  
8 it to be a nice place to live.

9 Q Great point. So it's not just coming to -- and  
10 by the way, in case you didn't know about Canada,  
11 we have among the -- of the Western liberal  
12 democracies, among the weakest laws of all the  
13 Western liberal democracies. We have no  
14 requirement to disclose beneficial ownership of  
15 companies, partnerships, or trusts. We have no  
16 obligation to disclose -- legal obligation to  
17 disclose beneficial ownership of land. We have  
18 some legislation federally for federally  
19 incorporated companies, but that's a registry  
20 held by the company itself and can only be  
21 accessed upon request by the government. In  
22 other words, the money launderers will hear you  
23 coming all the way down the rabbit hole just  
24 before you can even knock on the door. So not of  
25 much good.

26 And B.C.'s coming out with the *Land Owner's*  
27 *Transparency Act*. We are very excited about  
28 that. We'll talk about that in a while. But  
29 aside from that, we have no real protections. We  
30 do have financial institutions that are required  
31 to collect and verify, identify, you know, their  
32 clients. And there -- our banks, in particular,  
33 are quite good at that. They spend literally  
34 tens of millions of dollars every year doing  
35 that.

36 But all of our -- all of our designated non-  
37 financial businesses and professions have no such  
38 requirement, even though that's been a FATF  
39 requirement since 2012 that those people also  
40 [indiscernible - overlapping speakers] --

41 MR. WESTELL: Mr. Commissioner, I'm going to object.

42 MR. COMEAU: Yes?

43 MR. WESTELL: I'm concerned that this counsel is  
44 really testifying here and not really providing  
45 Mr. Bullough, who's the witness, an opportunity  
46 to provide us with his knowledge. There'll be an  
47 opportunity for submissions --

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1 MR. COMEAU: I will -- I will --

2 MR. WESTELL: If I could finish, please, sir.

3 There'll be an opportunity for submissions, as I  
4 understand it, at the end of the day. But we've  
5 -- I've tried to let this go without objecting  
6 for a period of time, with the preamble and a  
7 number of other questions, and I'm concerned  
8 about the efficiency of this process, and I'm  
9 concerned about using the time we have with Mr.  
10 Bullough to hear from Mr. Bullough. So that's my  
11 objection.

12 MR. COMEAU: And I'd like to apologize to the  
13 Commission. I am an international corporate  
14 lawyer. I have never cross-examined a witness in  
15 my life. And I apologize for that. So if it  
16 comes across as not complying with the rules of  
17 cross-examination, I apologize and I thank you  
18 for pointing that out to me. I will try and be  
19 more careful with my time.

20 THE COMMISSIONER: All right. Thank you, Mr. Comeau.  
21 I think the point is simply that, if you have a  
22 proposition to put to Mr. Bullough, you certainly  
23 may do that.

24 MR. COMEAU: Sure.

25 THE COMMISSIONER: Your questions were more in the  
26 nature of a soliloquy than a --

27 MR. COMEAU: Thank you. Understood.

28 THE COMMISSIONER: Thank you.

29 MR. COMEAU:

30 Q So I'd like to go through the -- we've gone  
31 through the factors of what would make Canada  
32 more attractive. Would our major cities also be  
33 more attractive to international money launderers  
34 as opposed to just a town up north?

35 A Yeah. Obviously, Vancouver would be extremely  
36 attractive because of its geographical location  
37 and undoubted physical charms, which is one of  
38 the reasons I'm so sorry not to be there in  
39 person. You know, I have a good friend from  
40 Winnipeg. I hear Winnipeg is very nice, but I  
41 suspect it probably wouldn't be as popular,  
42 because of its geographical location, as  
43 Vancouver. That would be my guess.

44 Q Okay. And when a money launderer is investing in  
45 real estate, is he principally concerned with  
46 making a profit on that money, or are they more  
47 concerned with simply cleaning their dirty money,

- 1 i.e. turning their proceeds of crime into  
2 something that's more readily usable?
- 3 A Money laundering tends to cost money, to cleanse,  
4 but once you have turned your money clean, if  
5 your asset can in turn, you know, provide you  
6 with a profit, then all for the good. But the --  
7 the intention - the -- the original intention of  
8 money laundering is to remove money from -- from  
9 essentially an unusable state and change it into  
10 a usable state. That is an expensive process  
11 that will cost money. But once it's become  
12 clean, like any clean currency, you want it to  
13 turn a profit.
- 14 Q Correct. Okay, thank you. Very much  
15 appreciated. So is it also fair to say that they  
16 are principally seeking to reduce their risk of  
17 loss --
- 18 A Yeah.
- 19 Q -- if they're -- or seeking to reduce the risk of  
20 getting caught?
- 21 A Yeah. I mean, it's the same in a way as any  
22 businessperson. You know, you want to keep as  
23 much of your money as you can and turn as much of  
24 a profit as you can. I mean, it's -- you know,  
25 they just have a particular specific need because  
26 they -- that process requires, you know, a  
27 process of obfuscating the origin of the wealth  
28 that does not otherwise exist.
- 29 Q Now, if it is the case that a whole bunch - whole  
30 bunch of this dirty money is coming from  
31 authoritarian and corrupt regimes, is it your  
32 view that when we're building our anti-money  
33 laundering machine, whether it's a public  
34 registry, a private registry, et cetera, that we  
35 look at it from the point of view of persons in  
36 those jurisdictions and what they would be --  
37 their incentives are, and in order to structure  
38 it in a way that reflects knowing your enemy?
- 39 A No. I would recommend trying to make the system  
40 as simple and as coherent as possible with as few  
41 exceptions as possible. If you start treating  
42 different categories of people differently for  
43 any reason, then that provides loopholes through  
44 which skilled intermediaries can -- can move. So  
45 you know, I -- I think that there is a valid  
46 distinction between ordinary citizens and  
47 politically exposed people. And I do not think

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1           it is invalid to demand special checks on  
2           politically exposed people because of the greater  
3           corruption risk. Beyond that, I think everyone  
4           should be treated the same because if you start  
5           making exceptions, then you start creating  
6           loopholes, and that, you know, as a lawyer you  
7           will understand that that is -- you know, a mob  
8           lawyer's bread and butter. If you find a  
9           loophole, then you can drive as much money  
10          through it as you like.

11         Q    One of those requirements on the registry, you've  
12           talked about vetting. And by vetting, what  
13           things do you believe should be vetted?

14         A    In terms of the information provided?

15         Q    Yes. On a public or private registry.

16         A    Well, I mean, to my mind, an ideal registry, the  
17           information needs to be checked in the same way  
18           that a bank will check the information provided  
19           when you are opening a bank account. You know,  
20           that means that in order to -- to -- if you need  
21           to submit your name, address and so on, you need  
22           to provide proof that that is indeed your name  
23           and address. You know, this is -- it's a fairly  
24           mundane process and one conducted by you know,  
25           high street banks all over the world without any  
26           kind of complications. You know, that's, to my  
27           mind, pretty straightforward. It becomes more  
28           complicated when it's a question of verifying  
29           information submitted in company accounts,  
30           because that isn't something that you can verify  
31           in the same way, by submitting you know, the  
32           usual proof of identity. In that case, I think  
33           the information should be audited or submitted by  
34           a professional who is regulated for money  
35           laundering purposes, and so we know that there is  
36           an individual's name attached to the information  
37           who can be held accountable if that information  
38           is shown to be willfully false. That, to my  
39           mind, is the best thing -- the best way it could  
40           be run.

41           But I don't see that -- I think this would  
42           be relatively straightforward to design.

43         Q    So the banks in their requirements under the  
44           *Proceeds of Crime (Money Laundering) and*  
45           *Terrorist Financing Act* in Canada and the  
46           Regulations thereto, financial institutions, some  
47           of the steps that they have to take is to in fact

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1           get government-issued identification documents,  
2           such as a passport or a driver's licence with a  
3           photo ID, and they generally like to see that  
4           person and compare, but with a registry I think  
5           that's impractical. Would -- but they also in  
6           those cases, when they can't, they get certified  
7           copies. Would that be part of what you think  
8           would be at a minimum what would be a required  
9           part of verification?  
10          A       Yes, I would say so. I mean, I think, to be  
11           honest, a system that several offshore  
12           jurisdictions have when they have a registered  
13           agent model when it's not possible to access a  
14           registry or register a company in person that you  
15           have to go via a registered agent. Those  
16           registered agents essentially vouch for the  
17           veracity of the information submitted and are  
18           essentially you know, going to guarantee it,  
19           because if they - if they submit false  
20           information, they will lose their licence. That  
21           seems to me an eminently practical model as well.  
22           But yes, I agree, submitting a certified copy of  
23           a government-issued ID -- I mean, in the UK we  
24           place a lot of reliance on utility bills, a  
25           certified copy of an electricity bill or water  
26           bill to show that you do indeed live where you  
27           say you live. You know, that would -- it seems  
28           to me that would be very straightforward.  
29          Q       Right. Right. And let's see. So without  
30           vetting -- I understand the UK did not have  
31           vetting -- without vetting, is the public  
32           registry of very limited value?  
33          A       Well, I mean --  
34          Q       Significantly less --  
35          A       -- essentially --  
36          Q       [indiscernible]  
37          A       Yeah. Significantly less value than it should  
38           have. I mean, at present, approximately half of  
39           all companies registered with the UK's Companies  
40           House are registered directly by the individuals  
41           that own them rather than via a third-party  
42           intermediary, which means there are no checks on  
43           the information at all. If they are registered  
44           via a solicitor's office you know, or another  
45           registered professional, then you would hope that  
46           the information would be checked because, you  
47           know, that's what's solicitors are supposed to

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1 do. But you have no actual way of knowing that.  
2 Also, because the information isn't checked, if  
3 it says it's been submitted by a solicitor, you  
4 don't know if it really has because it could have  
5 been -- they could just say it's been submitted  
6 by a solicitor and maybe it hasn't actually.

7 So the problem is inevitably if a  
8 significant proportion of the information is  
9 unverified and unverifiable, then it immediately  
10 calls into question all the rest of the  
11 information, because if you don't have a sort of  
12 baseline of veracity, then it becomes, you know,  
13 essentially impossible to verify. That's not to  
14 say that it isn't useful. You can see patterns  
15 of criminal behaviour from companies that -- you  
16 know, to use a metaphor, that sort of shoal  
17 together, if you have lots of companies that  
18 behave in the same way that submit accounts that  
19 are all, you know, false but similar, that are --  
20 they're accounts assigned by supposedly the same  
21 person, that are owned by the same offshore  
22 countries, registered in the same offshore  
23 jurisdictions and so on, that can be useful in  
24 terms of trying to map the -- map the geography  
25 of a criminal group. But it doesn't actually get  
26 you anywhere into finding out who actually owns  
27 the company, you know. Yeah.

28 Q And in addition, would it also help -- you're  
29 talking about multiple owners -- would it also  
30 help to have a unique identifier attached,  
31 generated by the registry for each person? So  
32 for example, if you have John Smith from London,  
33 would it be helpful -- and he owns -- and then  
34 there's 17 homes in Vancouver that are owned by  
35 John Smith in London, would it be helpful if they  
36 had the unique identifier number so that you'd  
37 know, ah, 14 of them are owned by the same John  
38 Smith, or they're all owned --

39 A I think --

40 Q -- by different people?

41 A I think that would be enormously valuable and it  
42 would also get around a problem caused by  
43 transliteration from different alphabets into  
44 Latin script. If you transliterate from, for  
45 example, the Cyrillic alphabet or the Arabic  
46 alphabet or Chinese characters into Latin script,  
47 there are multiple different systems that can be

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1 used, which means that the same person can spell  
2 their name in many, many different ways -- and  
3 they do, deliberately.

4 So yes, if each person had you know, a  
5 numerical or a form of a code assigned to them  
6 which they always had to use, they wouldn't be  
7 able to game the system by pretending that -- you  
8 know, or just by spelling their name differently,  
9 in different ways, which is a very simple trick  
10 and very widely used to essentially, not lie  
11 about your identity but to definitely mislead,  
12 because, you know -- it's you know --  
13 particularly from Chinese into Latin script,  
14 there are many, many, many different ways of  
15 transliterating.

16 Q One of the advantages of a public registry is  
17 that NGOs, investigative journalists, and just  
18 ordinary citizens of these countries around the  
19 world can go on the registry and see whether or  
20 not, you know, their governor is registered there  
21 or their -- you know their governor's nephew has  
22 seven houses in Vancouver. And so to facilitate  
23 that, do you believe that there should be a  
24 search field in the registry that allows you to  
25 search by country?

26 A By country of origin of the individual?

27 Q So for instance -- I was saying it generally.  
28 But it could be, you know, the person filing  
29 their beneficial ownership information will tell  
30 you their name, their address, their citizenship,  
31 their country of residence, et cetera. Would it  
32 be helpful to, say, allow one of those search  
33 fields to be more than just a person's name? In  
34 other words, you have the country of it, so that  
35 if you are, you know, living in Nigeria, you just  
36 want to generally see -- I want to find out which  
37 guys are corrupt, and then you look on the  
38 registry and you say "countries of residence,"  
39 and it gives you 70 people from Nigeria. And  
40 then you say, oh my god, that's our mayor's  
41 nephew who owns 14 houses.

42 A I suppose it would be useful. I have never  
43 thought it before. But yes, it would certainly  
44 make researching easier for citizens of -- of  
45 individual countries, particularly considering  
46 the size of these registries. You have, you  
47 know, many millions of companies, and wading

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1 through them is a laborious task.

2 Q Yeah, it's a tough one because our *Land Owner*  
3 *Transparency Act*, as it's drafted right now, you  
4 can only search based on the person's name or the  
5 land itself.

6 Q [Indiscernible - overlapping speakers]

7 A We have it the other way, that you can only  
8 search by the land itself or by -- if there is a  
9 corporate structure, you can search by the name  
10 of the corporate structure, but, I think for  
11 privacy reasons, you can't search by an  
12 individual's name. So you know, you could --

13 Q [indiscernible - overlapping speakers]

14 A -- you could theoretically search for every  
15 single property in the UK and therefore discover  
16 who owned everything, but you couldn't do it the  
17 other way round. You couldn't search for a name  
18 and then figure out what property they own.

19 Q One of the -- one of the stated advantages of a  
20 public registry also is that it enables law  
21 enforcement agencies to connect falsely declared  
22 registrants with the true perpetrator of the  
23 predicate crime. And that's because it allows  
24 people from around the world to discover persons  
25 that are falsely registered. Would it be helpful  
26 to have in the registry just a basic tip line,  
27 the same way we have Crime Stoppers in each of  
28 our provinces, including B.C.?

29 A Yeah, absolutely. And also for -- I mean, you do  
30 get legitimate mistakes get made. Anything that  
31 helps improve the accuracy of a registry. If you  
32 say, well, this is clearly a falsely entered  
33 piece of information, whether genuinely or --  
34 just accidentally or deliberately entered, it's  
35 useful to clear up falsehoods. Absolutely, I  
36 completely agree.

37 I mean, on -- on the point of foreign law  
38 enforcement agencies, it's very difficult if you  
39 have to send a mutual legal assistance treaty  
40 request to find out who owns a company, it takes  
41 months to get an answer, whereas if you can just  
42 go online and search, you can find out in  
43 seconds. It's one of the great advantages of an  
44 open registry, is it cuts out an enormous amount  
45 of the bureaucracy involved in finding out very  
46 simple pieces of information.

47 Q Thank you. You were just discussing earlier about

1 -- about penalties, sanctions attached to money  
2 laundering. Do you think it would be helpful to  
3 have the public better understand that money  
4 laundering is in fact just the second part of the  
5 underlying predicate crime? For instance, money  
6 laundering is part of drug trafficking, human  
7 trafficking, political corruption. Is that a  
8 valid way of looking at it?

9 A Absolutely. I mean, I think -- you know, the  
10 point I always make is that people don't steal  
11 money unless they're going to be able to spend  
12 it, and money laundering is what allows them to  
13 spend it. You know, you can't really understand  
14 one crime without the other. It's something we  
15 don't have any trouble understanding with regard  
16 to, say, street gangs that steal mobile phones.  
17 We recognize that they're not going to steal the  
18 mobile phones if there aren't, you know, second-  
19 hand phone shops that will happily accept these  
20 phones, no questions asked. But yeah, somehow we  
21 don't tend to give it as much thought when it  
22 comes to kleptocracy, even though it's a far more  
23 serious issue.

24 Q Right. So it's not really a matter of having  
25 prison sentences attached to these for purposes  
26 of negotiating, police negotiating, which it  
27 seemed to be the consensus that that would be  
28 more effective. You've got more leverage. You  
29 can flip guys that way. But it's also justified  
30 on the basis that what we're combatting here,  
31 money laundering, is really part and parcel of  
32 the underlying predicate crimes.

33 A Absolutely. I mean, the crimes are -- you know,  
34 any kind of crime with a financial dimension only  
35 makes sense if you can make use of the money that  
36 you've gained. And inevitably, therefore, if you  
37 can't launder the money, you're not going to  
38 bother committing the crime in the first place.  
39 Or you're certainly unlikely to do so to such an  
40 extent.

41 Q So here in Canada, we have our securities laws  
42 that are within the jurisdiction of each of the  
43 provinces. And so those provinces don't have,  
44 under the Constitution, the right to be dealing  
45 with criminal law, generally. Just so you have a  
46 background of Canada. But the provinces see  
47 breaches of securities law as being very serious.

1 It undermines our financial markets, at a  
2 minimum.

3 B.C., under their *Securities Act*, has for a  
4 number of offences, including false statements,  
5 materially false statements in a prospectus, they  
6 have fines of \$5 million and five years in  
7 prison. Do you see that type of sanction as  
8 being a corollary to the type of sanction that  
9 should be attached to money laundering, that  
10 could be attached to, of course, drug  
11 trafficking, human trafficking, political  
12 corruption?

13 A I mean, yeah. My intention is -- my intention  
14 would not be to raise funds or to put people in  
15 prison just for the sake of it. The idea is to -  
16 - is to create a disincentive that prevents  
17 people from wishing to engage in this kind of  
18 activity. You know, I think that the majority of  
19 people who are involved in money laundering in  
20 somewhere like Vancouver or, for that matter,  
21 London, are people with a relatively high status  
22 in the community. These tend to be relatively  
23 high status jobs, quite well rewarded jobs. And  
24 -- you know, these are the kind of people who  
25 really don't want to go to prison. They're --  
26 you know, they're not -- you know, hardened  
27 street -- street criminals who can take a spell  
28 in prison and come out of it the tougher. They  
29 certainly wouldn't be that. They would come out  
30 of it with their lives ruined, and they're aware  
31 of that.

32 So -- you know, to my mind, two or three  
33 well publicized criminal convictions and prison  
34 terms for you know, high profile lawyers or  
35 accountants would go a very long way to dissuade  
36 any other lawyers and accountants from engaging  
37 in these kind of activities. And that's what I  
38 would like to see. You know, I think the ideal  
39 law in this regard is one that doesn't need to be  
40 used, right, because you've used it enough times  
41 that the point has been made. You know, we want  
42 to stop people doing this. We don't want to  
43 punish them for doing it. It's to stop them  
44 doing it. That's the point.

45 Q Thank you. I just want to go back to what should  
46 be in a public registry again. User fees, say  
47 five dollars for each search. The UK used to

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1 have user fees, I understand. Is that correct?

2 A Yeah, it did -- it did. Yeah.

3 Q And they no longer have those. Have the number  
4 of searches gone up?

5 A Yes, skyrocketed. It's totally changed the  
6 nature of the registry. In fact, much of the  
7 stuff that I talk about -- about problems with  
8 the registry, would simply be impossible if there  
9 were still a user fee. If I had to spend three  
10 pounds every time I wanted to verify whether, you  
11 know, Mr. XXX Stalin was genuinely the owner of  
12 something or not, then I just wouldn't engage in  
13 that activity.

14 You know, you have to make -- to map the  
15 dynamics and the geography of a kind of criminal  
16 gang in the way I was talking about when many  
17 companies "shoal," inverted commas, together, you  
18 need to look at the records of hundreds of  
19 companies, which you simply wouldn't be able to  
20 do if every search cost three pounds because it  
21 would be an absurd expense eventually.

22 So nowadays it's possible to obtain this  
23 information on a spreadsheet so you can look at  
24 it all in one go. You can do -- you know, quite  
25 complex analysis of the information. You know,  
26 it's the fact that the information is freely  
27 available -- freely in the sense of free of  
28 charge -- is absolutely crucial for being able to  
29 analyze it properly. You know, if you have to  
30 pay to access the registry, then it loses much of  
31 its utility.

32 Q [indiscernible] I'd like to ask you about the  
33 damage that money laundering causes to the people  
34 in transitioning and developing nations.

35 A Yes.

36 Q The predicate crimes. Could you speak to that  
37 for a moment?

38 A Yes. I mean, I -- I mean, I write about this in  
39 my book. Essentially -- I'm going to briefly  
40 sort of philosophize. Essentially, if -- if you  
41 look at what a state is -- you know, and where a  
42 state came from, states arose -- certainly  
43 according to the theory of Mancur Olson, which I  
44 subscribe to -- when essentially roving bandits  
45 who took their time, who went around beating up  
46 prehistoric gangs of hunter-gatherers, when they  
47 decided they could make better profits from

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1 staying put and stealing from them all the time  
2 than they could from occasionally bursting into  
3 their encampment and just stealing whatever was  
4 lying around.

5 When they essentially embedded themselves in  
6 these gangs of hunter-gatherers as their  
7 rulers -- as their stationary bandits, as Mancur  
8 Olson puts it -- their interests became aligned  
9 with the hunter-gatherers that they were  
10 predating upon, because the richer the people --  
11 their subjects became, the richer the stationary  
12 bandit who ruled them could become.

13 And this is what gave birth to government,  
14 what eventually gave birth to what we call  
15 civilization, because it allowed people to live  
16 their lives in a predictable way, knowing how  
17 much of their income was going to be stolen from  
18 them by the stationary bandit that ruled them,  
19 though we don't call it stealing any more. We  
20 call it taxes. That is -- you know, essentially  
21 the birth of the modern nation-state is when --  
22 you know, these people settled down and began  
23 stealing from their subjects all the time in a  
24 regulated sense, and in return providing  
25 security.

26 Now, what Moneyland -- what this modern  
27 offshore system, the dark side of globalization,  
28 does is it undercuts that calculation because the  
29 interests of the rulers and the ruled are no  
30 longer aligned, because if the stationary bandit  
31 can steal as much as he wants from his subjects  
32 but doesn't have to invest that money that he's  
33 stolen in something that benefits his subjects,  
34 then you end up with a totally different  
35 situation. You end up with something that's much  
36 more akin to colonialism, whereby wealth is  
37 continuously extracted from your group of hunter-  
38 gatherers -- though nowadays we call it a country  
39 -- and is sent somewhere else. Then that group  
40 becomes continuously enfeebled by the loss of the  
41 wealth that it builds up by its work.

42 And what does that mean? That means that  
43 roads that should be built don't get built.  
44 Schools that should be built don't get built.  
45 Teachers and police officers and army officers  
46 that should be paid don't get paid. And so  
47 inevitably these people end up looking to

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1 supplement the money they're not being paid,  
2 because it's been stolen, in other ways. They  
3 end up extracting bribes from the population that  
4 they're supposed to be serving.

5 So you end up, because of this continuous  
6 extraction of wealth that in reality belongs to  
7 the people that it's being stolen from, but is  
8 being stolen by the rulers of those people, you  
9 end up with a -- with -- government becomes not  
10 something whose interests are aligned with the  
11 people that it rules, but an entirely predatory  
12 organization that just enfeebles the ruled all  
13 the time.

14 And so -- you know, the consequences of that  
15 are misery, disease, terrorism -- because -- you  
16 know, armed groups grow up in opposition to this  
17 -- insecurity, crime. Everything bad that we see  
18 in the world is made worse by the presence of  
19 kleptocracy.

20 There was a very -- I found -- I'm going to  
21 read it out -- a very enlightening quote, if I  
22 can find it, from a U.S. general who was active  
23 in Afghanistan, describing the difficulty of  
24 fighting the Taliban. I'll see if I can find  
25 this quote. I probably won't be able to find it  
26 now, having said I'll be able to find it, but I  
27 will just have a quick look just because I think  
28 it is very enlightening in terms of -- you know,  
29 what we are all up against. You know, this is a  
30 man who spent years fighting against the Taliban,  
31 and yet he described -- I'm probably not going to  
32 able to find the actual quote -- he said that the  
33 battle he had against corruption was the real  
34 battle. I mean, he said, the ideological  
35 insurgency -- this is U.S. Marine Corps General  
36 John Allen, formerly head of international forces  
37 in Afghanistan. He said:

38  
39 The great challenge to Afghanistan's future  
40 isn't the Taliban, or the Pakistani safe  
41 havens, or even an incipiently hostile  
42 Pakistan. The existential threat to the  
43 long-term viability of modern Afghanistan is  
44 corruption. The ideological insurgency, the  
45 criminal patronage networks and the drug  
46 enterprise have formed an unholy alliance,  
47 which relies for its success on the criminal

1 capture of your government functions at all  
2 levels. For too long, we've focused our  
3 attention on the Taliban as the existential  
4 threat to Afghanistan. They are an  
5 annoyance compared to the scope and  
6 magnitude of corruption with which you must  
7 contend.  
8

9 Essentially what corruption is in a place  
10 like Afghanistan or a place like Nigeria or  
11 Russia, corruption is the virus. The  
12 manifestations that you see, things like the drug  
13 trade or the Taliban or diseases that break out,  
14 these are just the pimples on the skin that  
15 reveal the existence of the virus. Corruption is  
16 the problem. And that's why -- everything flows  
17 from it. If you can solve corruption, many of  
18 the other problems that we battle with all the  
19 time would solve themselves.

20 Q Are we in fact enabling corruption by having weak  
21 anti-money laundering laws allowing it to be  
22 laundered in our countries?

23 A Absolutely. We are -- kleptocracy is inherently  
24 transnational. Our financial systems are an  
25 essential enabler. They're an essential part of  
26 kleptocracy. Without our financial systems,  
27 kleptocracy would not exist.

28 Q So let's talk about the damage to Canada, more  
29 specifically to Vancouver and the neighbouring  
30 areas.

31 If a large amount of money is coming in from  
32 around the world to Western liberal democracies  
33 and there's a strong incentive to send it to  
34 countries with weak anti-money laundering laws  
35 within those Western liberal democracies -- and  
36 you had said it's more likely to be targeted in  
37 their major cities -- if that money is coming  
38 into Vancouver real estate, would it artificially  
39 inflate the prices?

40 A Oh, yes, inevitably. I mean, I don't know if the  
41 word is "artificially" because, I suppose, all  
42 real estate prices are artificial. But yes, I  
43 mean, real estate prices would be increased  
44 beyond where they would otherwise be, which  
45 inevitably means, you know, more productive  
46 sectors of the economy, young Canadians, young  
47 people who wish to come and live in Canada to

1 build their lives there, would not be able to  
2 afford to live in Vancouver in the way that they  
3 would like to.

4 So yes, if people are using your real estate  
5 as an asset class, inevitably that prices other  
6 people out of the market.

7 Q And in fact, we have a unique problem in Canada  
8 because our banks are really strong in anti-money  
9 laundering battle. We have very good protections  
10 there to the point that I would have thought  
11 money launderers would avoid going into the  
12 banks. So to rent in Canada, if you're some guy  
13 on the other side of the world and you've got a,  
14 you know, number of houses in Vancouver, would  
15 your risk increase if you had a Canadian renter  
16 that wanted to pay you with a Canadian cheque or  
17 a direct deposit that would go in a Canadian  
18 bank?

19 A So you are renting out your criminally acquired  
20 property. No, I would say that would be quite a  
21 useful return on your investment, I would  
22 imagine.

23 Q Yes. But if the cheque itself would go to the  
24 Canadian bank or the direct deposit would go to  
25 the Canadian bank, you would have to open up --  
26 you the money launderer would have to open up a  
27 bank account at that Canadian bank. And that  
28 increases your risk of getting caught, does it  
29 not?

30 A I mean, theoretically, yes. But in reality, you  
31 would normally have a lawyer to do that for you,  
32 and then it would be fine.

33 Q Except we also have a law in Canada that requires  
34 that 25 percent of all rent paid be set aside and  
35 paid to Canada Revenue for all foreign owners.  
36 And so, you would have to get the name of the  
37 beneficial owner and deposit that with Canada  
38 Revenue.

39 A I mean, it's a slightly theoretical discussion  
40 because as a rule these are people who do not  
41 require rental income to justify their property  
42 purchases.

43 Q So do they generally leave those properties  
44 vacant?

45 A Yeah. Or their children might live there --

46 Q Right.

47 A -- or relatives or whoever. I mean, but they --

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1           these don't tend to be people who are sort of  
2           worrying, you know, enormously about the kind of  
3           return that the rest of us worry about.

4       Q     Because one of the complaints that you often hear  
5           is that there's a whole bunch of empty  
6           apartments, and people are suggesting it's money  
7           launderers. Do you think there's any truth in  
8           that?

9       A     Oh yeah, absolutely. I mean -- you know, or it  
10          might just be -- yeah. I mean, it's people with  
11          illicit wealth who are buying up places because  
12          maybe they want a pied-à-terre in Vancouver, you  
13          know.

14       Q     Right.

15       A     It's a nice place to be. Maybe they want to  
16          visit one day, you know. And in the meantime  
17          it's a -- their money is being kept safe by the  
18          Canadian system, and that's a good way to be.

19       Q     And I assume that happens in London and other  
20          major cities around the world. Does that hollow  
21          out their economies? There's no --

22       A     Yes.

23       Q     -- [indiscernible - overlapping speakers]  
24          restaurants, et cetera?

25       A     Yeah. I mean, it inflates asset prices  
26          enormously -- I mean house prices enormously --  
27          and it skews the economy towards particular  
28          sectors, you know. I mentioned yesterday the  
29          luxury watch sector -- you know, the luxury watch  
30          sector, the sports car sector, you know, the  
31          high-end boutique sector. You know, the kind of  
32          things that are purchased by oligarchs and the  
33          relatives of oligarchs, but not by the rest of  
34          us.

35                 So yeah, it -- it skews the economy towards  
36          what Ajay Kapur called plutonomy rather than the  
37          kind of things that the rest of us buy.

38       Q     I'd like to talk about privacy issues. I think  
39          they're very important. Certainly, the coalition  
40          that I'm representing care very much about  
41          privacy concerns. And they said that utmost care  
42          must be taken for privacy concerns when setting  
43          up a public registry. And they've advocated that  
44          it be a bifurcated system, so that certain  
45          information is kept strictly confidential, and  
46          that would be -- you know, the passport number,  
47          the passport information. It would also be

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1 things like the full address of the person. In  
2 other words, they're advocating just to disclose  
3 the city that the person lives in, and the  
4 country, as opposed to giving a specific address,  
5 to deal with concerns about risk of harm. And  
6 they've also advocated that there be an exemption  
7 provided if persons wanted to apply to the  
8 administrator for -- because they believe that  
9 their life could be at risk if they publicly  
10 disclose.

11 Do you agree with those type of exemptions?  
12 A Yeah, I think in the main, provided that there is  
13 some form of unique designator so that you know  
14 that, you know, for example -- you know, Ivan  
15 Ivanov of Moscow is this Ivan Ivanov and not one  
16 other Ivan Ivanov of Moscow. You know, yes, I  
17 think that that's fine. I mean, you know, there  
18 are some very common names out there, and if it's  
19 just a common name provided and a large city,  
20 then -- then it can be difficult to know that  
21 you're dealing with the same person. If a unique  
22 designator number is attached to each person,  
23 each individual on the register and they have to  
24 always use that -- that number when filing  
25 information about themselves, I think that would  
26 be fine.

27 I think a second point to raise is that a  
28 downside that I've heard from, you know,  
29 respectable parties of the British open registry  
30 is that, because it does publish the home address  
31 of company directors, that they can then be left  
32 open to identity fraud because their identity can  
33 essentially be stolen by identity fraudsters and  
34 it can look legitimate.

35 So yeah, I think there are good reasons for  
36 disguising someone's home address, provided that  
37 their identity is affirmed in another way so we  
38 can be certain who exactly it is that's being  
39 spoken about.

40 Q With a unique identifier and with, say, city and  
41 country of residence?

42 A Yeah. I mean, something along those lines. I  
43 mean, if we had a unique identifier and a name,  
44 you wouldn't even necessarily need city of  
45 residence. I mean, I would like to see it. You  
46 know, I'm a journalist. The more information I  
47 can get, the better. But I can understand why it

1 might be acceptable not to provide it.

2 Q Right. And do you think that a public registry  
3 with those type of protections is, in your view,  
4 a legitimate balance between privacy and the  
5 concerns of money laundering and all it  
6 represents?

7 A Yeah, I think it would be -- that could be --  
8 would be an ideal combination, yeah. You know,  
9 as long as the information provided allows you to  
10 identify the individual involved and the  
11 information provided is verified in a reliable  
12 way, and there is a straightforward and  
13 transparent mechanism if someone's name is not  
14 provided, that you know precisely why the name  
15 hasn't been provided, and you can trust the  
16 system that has not provided the name, if there  
17 is a security threat or whatever, then I think  
18 that would be acceptable. But I think the --  
19 when it comes to not providing a name, the bias  
20 has to be towards transparency. So transparency  
21 needs to be the default, and not providing a  
22 name, not giving transparency, has to be the  
23 exception.

24 Q The last thing I want to touch is trade-based  
25 money laundering. Have you -- do you believe  
26 trade-based money laundering is existing in all  
27 countries including Canada [indiscernible -  
28 overlapping speakers]?

29 A Yes, it's a gigantic problem and almost  
30 impossible to -- to uncover the extent of it  
31 because it's so prevalent everywhere, and so much  
32 of it happens within corporations and within  
33 corporate groups, which makes it difficult to  
34 analyze. But yeah, it's a gigantic problem.

35 Q Because one of the things you said earlier is, we  
36 really need to get our arms around how much money  
37 is being laundered in total so that we could know  
38 how big the problem is. And I agree it's  
39 extremely difficult. Trade-based money  
40 laundering makes it even tougher. If someone in,  
41 say, you know -- I don't know, name a country  
42 around the world -- some foreign country wants to  
43 send money to Canada, but they think, oh, I don't  
44 want to send it through the financial system. I  
45 want to do it through trade-based money  
46 laundering. Could they not just incorporate a  
47 company in Canada and start importing goods to

- 1 Canada and just, instead of charging -- you know,  
2 \$100,000 for this shipment of sandals, they  
3 charge, you know, \$20,000 for that shipment, and  
4 they just transferred value?
- 5 A Absolutely. And it can work in the opposite  
6 direction if you wish to avoid taxes or evade  
7 taxes as well. So yeah. I mean, it is a way of  
8 moving money to a convenient jurisdiction. It's  
9 a very difficult one to crack down on,  
10 particularly, as I say, when it happens within  
11 corporate groups because it can be very difficult  
12 to see the justification for transactions.
- 13 Q Right. And so one of the criticisms of how much  
14 -- estimates of how much money is laundered in  
15 Canada is that they look at money flows and they  
16 say, we just can't see, based on money flows,  
17 that you could have \$100 billion plus a year  
18 coming into Canada. And so, if you looked at  
19 trade flows and part of that could be trade-based  
20 money laundering, it's actually -- in your view,  
21 is that quite possible that you simply can't just  
22 look at financial flows?
- 23 A Absolutely. I mean, I'm always reluctant to  
24 commit to any particular number because, you  
25 know, no one knows, and I think it's unwise to be  
26 overly specific because it gives an impression  
27 that we know more than we do. But yes, I think  
28 all studies, all reputable studies would show  
29 that trade-based money laundering is probably the  
30 greatest component of money laundering that there  
31 is, if not actually the greatest and certainly  
32 one of the greatest. So, you know, any estimate  
33 that doesn't include trade-based money laundering  
34 is going to be a significant underestimate of the  
35 size of the problem.
- 36 MR. COMEAU: Thanks. Those are all my questions. And  
37 I also want to thank the Commission for the  
38 opportunity to cross-examine, and I want to thank  
39 you, Mr. Bullough, for coming to Canada and  
40 sharing your expertise.
- 41 A It's my pleasure. I only wish I could have come  
42 in person.
- 43 THE COMMISSIONER: Thank you, Mr. Comeau. Mr.  
44 Martland, do you have anything in re-examination  
45 or, for that matter, are you aware of whether  
46 anyone else has any questions of Mr. Bullough?
- 47 MR. MARTLAND: No, I'm not aware of anyone else. If

