

**PROCEEDINGS AT HEARING
OF
DECEMBER 11, 2020**

COMMISSIONER AUSTIN F. CULLEN

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1

December 11, 2020

2

(Via Videoconference)

3

(PROCEEDINGS COMMENCED AT 9:00 A.M.)

4

THE REGISTRAR: Good morning. The hearing is now

5

resumed. Mr. Commissioner.

6

BRYANNA GATELEY, a

7

witness for the

8

commission, recalled.

9

JOEL GIBBONS, a witness

10

for the commission,

11

recalled.

12

SUSHILE SHARMA, a

13

witness for the

14

commission, recalled.

15

THE COMMISSIONER: Thank you, Madam Registrar.

16

Ms. Latimer.

17

MS. LATIMER: Thank you, Madam Registrar, when we

18

left off yesterday we were looking at the

19

document at tab 4 and if we could have that

20

displayed, please. That's the page.

21

EXAMINATION BY MS. LATIMER (continuing):

22

Q I'll just turn it back over to the panel to pick

23

it up from where we left off yesterday with the

24

presentation. Thank you.

25

A (JG) Good morning. It's Joel Gibbons speaking.

1 So as I'll as indicated pick up where we left
2 off. [Indiscernible] close interaction that
3 we've had with that team at public safety is the
4 current conception of the initiative is
5 three-pronged, so it's essentially case support
6 where the Public Safety Canada will be bringing
7 together members of the public safety portfolio
8 plus other federal stakeholders to provide
9 support to money laundering cases, including
10 potentially trade-based money laundering cases,
11 and to help obtain resources to problem solve
12 and to prioritize the manner in which Government
13 of Canada agencies will tackle money laundering.
14 So that's sort of tier 1, I think, or bucket
15 number 1 of their responsibilities.

16 And I think the second area is to act as
17 what they're calling a knowledge hub. So
18 effectively a Centre of Expertise for the
19 broader issue of money laundering, which would
20 include in part trade-based money laundering, so
21 obviously the work that I do in CBSA Centre of
22 Expertise has a very close tie-in to this aspect
23 of the FC3 model.

24 Then the third is to coordinate on behalf of
25 all of the Government of Canada operational

1 entities that are involved in money laundering
2 to play sort of a policy oversight and a
3 governance role with respect to interactions
4 with the head of Canada's anti-money laundering
5 regime, that being Finance Canada. So that is
6 what is conceptualized I think for what was
7 known as the ACE team, which is now the FC3 and
8 that came out of budget 2019, as you can see on
9 the slide. Significant investment there over a
10 five-year span. And it is my understanding that
11 the FC3 concept and that team becomes fully
12 operational in the next Government of Canada
13 fiscal year commencing in April.

14 And then we come to the second initiative,
15 which I can speak with a little bit more
16 authority about because it's the area that I
17 work in now, which is CBSA's trade fraud and
18 trade-based money laundering Centre of
19 Expertise. And as indicated on the slide the
20 intention behind the initiative is really to
21 bring together experts across the agency, the
22 Canada Border Services Agency, who have a
23 specific role to play in the identification of
24 complex trade fraud schemes. And again those
25 schemes could involve some of the things that we

1 talked about yesterday that are more closely
2 associated with more traditional
3 customs-oriented fraud, so very complex duty
4 evasion schemes. But I would say the primary
5 thrust of the initiative based on the source of
6 the funding is to develop more knowledge of
7 trade-based money laundering, to really build up
8 our agency and then across the Government of
9 Canada to build up that picture of how customs
10 processes are being subverted for the purposes
11 of conducting trade-based money laundering. And
12 so the centre as conceptualized will later in
13 the funding cycle, so we're in the first of a
14 four-year funding cycle with some ongoing
15 funding after that and in the first year the
16 staff concentration is mainly from the
17 intelligence domain, so trying to build up that
18 threat picture of complex trade fraud and
19 trade-based money laundering in Canada. And as
20 we progress through the initiative once that
21 picture has been built up and we have a sense
22 of -- really a better sense of the scope and the
23 scale of the problem, we'll be bringing in
24 different resources to complement those
25 intelligence efforts with additional knowledge

1 and expertise, for example from the CBSA's
2 commercial operations, as well the CBSA's trade
3 operations, those are two distinct branches of
4 the agency. Commercial operations basically
5 dealing with goods that are coming in or leaving
6 Canada, making those release decisions, can
7 these goods enter or leave the country. And
8 trade being really responsible for accounting
9 decisions. So primarily import focus, primarily
10 based on but not exclusively on revenue-related
11 concerns. So very distinct programs and their
12 knowledge will be equally required within the
13 construct, this construct that we've come up
14 with, the Centre of Expertise.

15 Really what we're trying to do within the
16 centre when it comes to trade-based money
17 laundering is position ourselves well with our
18 partners in the Royal Canadian Mounted Police to
19 be able to leverage our capabilities under the
20 *Customs Act* to work beside the RCMP to pursue
21 the money laundering.

22 You can see some details on the slide in
23 front of you about the scope of the investment
24 and the time period over which the funds will
25 extend, and then as you can see there's ongoing

1 money after that initial four-year funding
2 window ends. In addition as part of the
3 original submission, our colleagues at FINTRAC
4 received, as I understand, some additional
5 funding to support the expected increase in the
6 volume of requests that my organization would be
7 making for increased financial intelligence to
8 conduct our work. I'd be happy to entertain any
9 questions you may have at this point.

10 In that case I think we can move on to the
11 next slide and I'll pass the floor to my
12 colleague Bryanna.

13 (BG) Hello there. Good morning. So in
14 addition to the initiatives that Joel just
15 mentioned to potentially combat trade-based
16 money laundering there are several other
17 initiatives that are currently either underway
18 or could be explored to tackle the issue of
19 TBML. So very broadly, opportunities such as
20 engaging the private sector through venues such
21 as FINTRAC's major reporters forum, our ML
22 contact group, public/private partnerships such
23 as Project Athena going on in "E" Division, that
24 likely my colleagues over at FI can speak a
25 little bit more to in detail. Additionally

1 there's opportunities to engage in JFOs or joint
2 force operations with our partner agencies to
3 investigate identified targets of mutual concern
4 to all the entities involved that are seeing
5 little bits in their domains that we could kind
6 of come together to put those pieces together to
7 flesh out the larger scheme and who's involved.
8 Some of the benefits potentially with pursuing
9 JFOs there's definitely some positive spillover
10 effects which can include interagency cross
11 training, opportunities there, both formally and
12 informally. As well more fulsome development of
13 TBML indicators. And then also the potential
14 for sharing and analyzing larger data sets
15 related to TBML activity. Historically the data
16 that we share we have to meet a certain
17 threshold to meet suspected activity that we can
18 request information from our partners, and I
19 think as we touched on yesterday often
20 information sharing is very ad hoc, case
21 specific, based on the specific individual or
22 threat group.

23 Other opportunities that could be pursued
24 would be MOUs and multilateral or bilateral
25 agreements that could be explored to expedite

1 sharing of information and possibly even pave
2 the way for the sharing of aggregate data
3 between countries. We could certainly better
4 leverage our non-traditional partners who do
5 hold information relevant to TBML. We've
6 touched on a few of those before. Some could
7 include Export Development Canada, Global
8 Affairs Canada, Industry Canada or within the
9 province BCLC and other public/private
10 enterprises as well.

11 Another kind of big piece, a big important
12 kind of structural piece is looking at procuring
13 IT systems that are capable of sharing and
14 analyzing big data sets that can speak
15 interagency so that the manual manipulation of
16 data isn't so cumbersome and it's easier to
17 identify anomalies and then provide the human
18 input to actually analyze and figure out what's
19 going on and if in fact it is a TBML scheme
20 that's taking place. And then finally we could
21 certainly better leverage our Government of
22 Canada resources that are already deployed
23 abroad. So the RCMP and CBSA both have liaison
24 officers. RCMP as well has analysts deployed
25 abroad. We've got Global Affairs Canada has

1 trade commissioners. These folks would
2 certainly be well positioned to exchange
3 information with foreign authorities, develop
4 business intelligence on local trade chains or
5 goods vendors as well as potentially verify the
6 validity of trade documents so that we could
7 solve some of the issues that have come up in
8 the investigations such as my colleague Sushile
9 mentioned where we get the information but it's
10 late, the transactions already happened, it's
11 dated and it's hard to follow up with and gather
12 evidence on from an investigative point of view.

13 So that concludes actually the main portion
14 of our presentation that we've presented to the
15 commission. There are a few additional
16 appendices. Those were attached by FINTRAC, but
17 we can do our best to speak to some of those if
18 there's any questions. They relate to a TBML
19 opportunity alert that FINTRAC prepared for
20 reporting entities and they also identified some
21 red flag indicators of TBML, both FINTRAC did
22 and they included some identified by the FATF.

23 MS. LATIMER: Madam Registrar, could we go to
24 slide 32, please.

25 Q This is the operational alert you mentioned

1 dated July 18th, 2018, and published by FINTRAC
2 and it's entitled "Professional Money Laundering
3 Through Trade and Money Service Businesses." I
4 take it you're familiar with the contents of
5 this document.

6 A (BG) Is that a question for myself Bryanna
7 Gateley?

8 Q Yes, please.

9 A (BG) Yes, I've reviewed it for the preparation
10 for the commission and I've got a few notes here
11 on it.

12 Q I was wondering just to begin if given your work
13 history with FINTRAC if you could describe for
14 the commission what an operational alert is and
15 how one is formulated by FINTRAC.

16 A (BG) I can only speak to it very, very broadly.
17 I can put my FINTRAC hat on, but I was a
18 tactical analyst doing disclosures in a very
19 different section. This would have been
20 produced by the strategic analysts who crunched
21 the data at a very aggregate level and then
22 they're looking for broad trends and typologies
23 and it's a program that they have although it
24 wasn't one that I participated in. So for any
25 specific detail on this operational alert, how

1 it was formulated and what that program looks
2 like you'd have to talk to FINTRAC in more
3 detail or a representative from that particular
4 section. But from reviewing it the information
5 in it seemed very sound as supported by research
6 that I've seen elsewhere in some of my
7 experiences as an intelligence analyst for the
8 RCMP. But it's my -- sorry go ahead. It's my
9 understanding that they prepare these -- this is
10 from kind of informal conversations that I had
11 with my colleagues when we presented at the
12 FinCEN trade-based money laundering conference a
13 couple of years ago because we used a very
14 similar PowerPoint presentation to present and
15 we had a week that we spent with them. But it's
16 my understanding that these operational alerts
17 are provided for the benefit of reporting
18 entities to provide an overview of an issue or a
19 little bit of clarification on an issue,
20 identify trends or typologies or indicators that
21 they could be looking for and with the intent of
22 education and training, and then so that those
23 reporting entities can better flag this activity
24 when they see it and then include it in their
25 suspicious transaction reports for the details

1 or the indicators that they're seeing to get
2 uploaded into the FINTRAC database. Then when I
3 put my tactical intelligence hat on and I've got
4 a request that's come in from law enforcement or
5 another agency where I'm doing a proactive
6 disclosure I would dig into that FINTRAC
7 repository, maybe search for trade-based money
8 laundering or some other type of keyword or pull
9 up the relevant source documents that come in
10 from the financial institutions or otherwise and
11 prepare disclosure on them. And we actually use
12 those indicators that they have identified in
13 their suspicious transaction reports as grounds
14 to meet our threshold for why this could be a
15 potential trade-based money laundering case, and
16 then when we send that disclosure to law
17 enforcement or CBSA or any of our other
18 partners, the disclosure itself will indicate
19 down below what those TBML indicators were that
20 the banks or other reporting entities have
21 identified.

22 So that's kind of a long way of explaining
23 that these little operational alerts, or not
24 little but research projects where they identify
25 very specific TBML money laundering indicators,

1 they go a long way to educate the front line
2 staff or staff in different sections of
3 reporting entities and those indicators make
4 their way into FINTRAC, into the disclosures,
5 and then are disclosed to whoever the client is
6 to FINTRAC. And then potentially analyst or
7 investigators use those indicators as possible
8 indicators of money laundering or trade-based
9 money laundering activity that we can then
10 leverage to get additional information to say
11 that we've kind of met our grounds for
12 suspicion. I think you might on mute.

13 Q I apologize. Thank you. I was just asking
14 Madam Registrar if we could have the document,
15 please, that's at tab 11 placed before the
16 panel.

17 I just wanted to confirm that this is the --
18 on the slide deck there was one page of this
19 operational alert included, but this is the
20 complete operational alert that we were just
21 discussing; is that correct?

22 A (BG) Yes, it is. Yes.

23 MS. LATIMER: Mr. Commissioner, I ask that this be
24 marked as the next numbered exhibit, please.

25 THE COMMISSIONER: Very well. I think we are at 346

1 now are we, Madam Registrar?

2 THE REGISTRAR: Yes, Mr. Commissioner, exhibit 346.

3 **EXHIBIT 346: FINTRAC, Professional money**
4 **laundering through trade and money services**
5 **businesses, July 18, 2018**

6 MS. LATIMER: Madam Registrar, can I please have the
7 document at tab 14 placed before the panel.

8 Q Mr. Gibbons, you recognize this as a
9 presentation entitled "Trade-Based Money
10 Laundering 101" delivered to CBSA liaison
11 officers and dated June 5, 2019; correct?

12 A (JG) Correct.

13 Q Madam Registrar, could we go to slide 14,
14 please.

15 This slide describes the current Canadian
16 trade-based money laundering environment and the
17 first bullet point is "key jurisdictions."

18 And, Madam Registrar, could you please
19 advance one slide.

20 Those are the key jurisdictions that are set
21 out here in slide 15; correct?

22 A (JG) Correct.

23 Q And can you just explain what is a key
24 jurisdiction or why you identify these as key
25 jurisdictions?

1 A (JG) So these would be either countries or
2 regions within countries where through all
3 manner of different reporting, whether it be
4 from FINTRAC reporting, reporting from law
5 enforcement, investigative reporting from open
6 sources or other open sources where concerns
7 have been established with respect to
8 trade-based money laundering, and this is
9 really -- it also comes from our own analysis of
10 customs-related data where we've been working
11 on, for example, developing trade-based money
12 laundering leads. These are basically the
13 jurisdictions that seem to come up over and
14 over. I would say from a trade-based money
15 laundering perspective it's basically the first
16 1, 2, 3, 4 bullets including any sub-bullets, so
17 basically down to the bottom of "Latin America"
18 where there are those key -- where the
19 trade-based elements where that concern lies.

20 And then I would say with the remainder of
21 the slide speaking to Russia related, that tends
22 to draw more from open reporting on large
23 laundromats, so international money laundering
24 schemes there's been a lot of really good
25 investigative reporting done on a number of

1 these so-called laundromats that seem to
2 indicate that to the extent that trade-based
3 money laundering is facilitating these large
4 laundromats, a lot of that activity and the
5 coordination of those laundromat efforts seems
6 to be emanating from -- seem to be Russian
7 related and from sort of jurisdictions
8 immediately surrounding Russia, including
9 Cypress. And then the last sub-bullet, BVI the
10 British Virgin Islands, is just indicating some
11 well-known secrecy jurisdictions that come up
12 when we start to look at some of the beneficial
13 owners of the foreign companies that may be
14 involved in, for example, a trade-based money
15 laundering scheme.

16 Q Thank you. And then the last bullet on the
17 slide is Canada with a question mark. Madam
18 Registrar, could you advance to the next slide,
19 please.

20 Could you just unpack what is set out here?

21 A (JG) Sure. Well, I mean, the last bullet on the
22 previous slide is just a question that I would
23 typically ask out loud when delivering a
24 presentation like this to suggest to the
25 audience that we don't really know where Canada

1 fits in with respect to trade-based money
2 laundering. Getting back to some of the
3 discussion from yesterday about the scope and
4 scale and where Canada fits into the overall
5 picture when it comes to trade-based money
6 laundering. Are we a key trade-based money
7 laundering jurisdiction? Are we a relatively
8 minor player in terms of being targeted for
9 trade-based money laundering? We're still at a
10 stage where we don't know. And I don't think
11 we're going to have a really good sense until
12 the area that I'm working in now has had more
13 time to establish itself, develop more
14 intelligence, become more involved in
15 investigations, that's what's really going to
16 give us that granularity and that's what's to we
17 hope fill in some of the missing gaps,
18 complemented I think with some analytics
19 initiatives that we're contemplating.

20 And on this slide in particular, this is
21 just to give a sense of what we think we know at
22 this point, and what we think we know is that
23 Canada seems to be to certain criminal networks
24 attractive to not only launder to in terms of --
25 and this is thinking more of, you know, Canada's

1 reputation for having a very solid and sound
2 financial system and as a place where funds
3 deposited are secure and protected in a very
4 reputable sector, or whether -- and/or whether
5 we are a jurisdiction that is convenient to
6 launder funds to or through. And so what we are
7 seeing indications of thus far is as follows:
8 we are seeing transnational organized crime
9 proceeds that are being generated in Canada.
10 And here I'm primarily talking about the
11 proceeds of drug trafficking activity being
12 laundered out of the country, so -- and this is
13 where we start to look into bulk cash pickups
14 and how the bulk cash may be placed into, for
15 example, import/export companies to later become
16 part of trade-based money laundering schemes.

17 We're seeing also at the same time some
18 indications that US-based proceeds of crime
19 which we believe are linked to again
20 international transnational organized crime
21 organizations being laundered through Canada
22 onwards to other jurisdictions. And this gets
23 back to some of our conversation yesterday about
24 the use of black market peso exchange schemes.

25 Then finally we're also seeing some

1 indications that some of the money that may be
2 coming into and as far as we can tell staying in
3 Canada could be related to sanctions evasion
4 including from possibly Iran. And last but not
5 least also some indication that some of the
6 money that may be staying in Canada could be
7 associated with capital flight from the Peoples
8 Republic of China. What I would probably stress
9 here is that in most of these cases we have
10 suspicion. We have more than just mere
11 suspicion. In fact in a number of cases we have
12 a fairly high degree of suspicion, but the work
13 that is ongoing is trying to elevate those
14 grounds and if those suspicions can be sustained
15 and those hypotheses tested as potentially being
16 trade-based money laundering schemes and if we
17 can elevate our grounds through certain
18 activities they could conceivably advance to
19 either investigations conducted under our
20 mandate or those of our partners, including the
21 Royal Canadian Mounted Police.

22 Q Could we go to slide 29, please, Madam
23 Registrar. Can you just explain not in
24 granularity but what this table represents, what
25 each column represents.

1 collaborative arrangement or the CBSA has a
2 specific agreement with that country which would
3 enable information sharing with that country and
4 could be leveraged in the context of developing
5 information regarding trade fraud, including
6 trade-based money laundering.

7 MS. LATIMER: Thank you. I ask that this document be
8 marked as the next exhibit, please.

9 THE COMMISSIONER: Very well, 347.

10 THE REGISTRAR: Exhibit 347.

11 **EXHIBIT 347: CBSA, Trade-Based Money Laundering**
12 **101, June 5, 2019**

13 MS. LATIMER: Madam Registrar, may I have the
14 document please at tab 20 displayed before the
15 panel.

16 Q Ms. Gateley, you recognize this as a
17 presentation you gave entitled "Trade-Based
18 Money Laundering: A Law Enforcement
19 Perspective"; correct?

20 A (BG) That's correct.

21 Q This document is undated as far as I can tell.
22 Do you recall when this presentation was given?

23 A (BG) Yes, I think -- give me one second, I'll
24 just pull it up. This would have been circa
25 2018 and I believe this presentation I delivered

1 on the proceeds of crime course to students at
2 the Justice Institute of British Columbia. But
3 I have delivered several variations of this
4 presentation throughout the last -- the year
5 prior to that, I believe.

6 Q Okay. Could we turn to slide 11, please, Madam
7 Registrar. Can you just unpack the issues that
8 are addressed here a little bit.

9 A (BG) Yeah, sure. Organizational challenges,
10 some we've already addressed in our presentation
11 because I took bits and pieces of this
12 presentation that were relevant to build into
13 the slides that we presented today and
14 yesterday. So this is kind of just an extension
15 of that. But in terms of additional
16 organizational challenges, so raising awareness
17 of trade-based money laundering and flagging it
18 in files is just the basic understanding that
19 education and training is required for
20 practitioners in the field that are looking at
21 trade-based money laundering investigations.
22 Sometimes even just a basic TBML 101 course or
23 even a money laundering 101 course is required,
24 depending on who the investigating unit is or
25 the analyst. And it's certainly important to

1 have kind of a broad understanding of
2 trade-based money laundering so that when we
3 start to engage in these investigations we can
4 properly flag it in our systems.

5 So in British Columbia we use PRIME as our
6 records management system and it would be
7 helpful to have potentially like a trade-based
8 money laundering flag so that analysts when we
9 want to go through our systems to see, you know,
10 are there any files related to this, we can
11 quickly filter based on a flag. But in order to
12 do that you have to have folks in place that are
13 investigating this that recognize trade-based
14 money laundering for what it is and are able to
15 say oh, this is a scheme; there's something
16 going on here; we should actually flag this as
17 trade-based money laundering.

18 Q Just to ask a followup question on that. Is it
19 the case that at the moment law enforcement
20 agencies in BC do not have a system for tracking
21 and flagging trade-based money laundering in
22 systems such as PRIME or other police databases?

23 A (BG) As far as I know, I do not believe that
24 there's a trade-based money laundering flag in
25 PRIME, and that was based -- I'm an analyst

1 supervisor now, so I haven't used PRIME
2 extensively over the last year or so, but prior
3 to that I don't believe there was one.

4 Q And, Acting Staff Sergeant Sharma, perhaps
5 you're better placed to answer that question
6 about whether there's any system for tracking or
7 flagging trade-based money laundering in PRIME
8 or any other police database in
9 British Columbia?

10 A (SS) Yes. Just to qualify that answer just a
11 little bit further from Bryanna, so specifically
12 to TBML at this point still a work in progress,
13 but in terms of flagging records for money
14 laundering or proceeds of crime, the short
15 answer is yes, there is a checkbox or a
16 mechanism for keeping track. However, the
17 caveat is that it's a dynamic work in progress.
18 Sometimes you will have a file or a project that
19 starts off as a drug investigation and it gets
20 flagged as a drug investigation and midway
21 through you'll have aspects of money laundering
22 that are found and recognized. And so what ends
23 up or can end up happening is sometimes during
24 the closeout of that file they may not be the
25 same set of eyes on that that were initially.

1 So that issue of a file being dynamic in origin
2 and evolving into perhaps one aspect or another,
3 I'm talking about either a CBSA investigation or
4 a money laundering investigation or a
5 combination of, it's an ongoing work in progress
6 in terms of the overview of that. So a bit of a
7 longer convoluted answer, but yes, there is a
8 system, but it does require some oversight and
9 at this point there's not a specific TBML
10 checkbox, but there is ML and proceeds of crime
11 check marks.

12 Q And that means that if you looked in those
13 databases and searched for that checkbox you
14 should be able to pull up all the investigations
15 that are check marked that way; correct?

16 A (SS) Does it mean that they were checked off,
17 the evolving nature of those files, then yes.

18 Q Madam Registrar, could we go to slide 12,
19 please. Here you address the way forward and
20 you've already addressed some of these topics,
21 as you mentioned, in your earlier slide
22 presentation. But I was wondering if you
23 could -- the two that I wasn't sure we had
24 covered off completely were the interagency
25 working group and the leveraging LOs and ADOs

1 abroad, and I just wasn't sure what it was and I
2 was hoping you could tell us a bit more about
3 that.

4 A (BG) Oh, sure, sure. So at this time -- I just
5 pulled up the presentation and that was
6 delivered in April of 2018. At that time there
7 was an interagency working group in
8 British Columbia at the director level. I
9 believe it was initiated or if not initiated a
10 key player in that at the time was the OAC of
11 our federal FSOC financial integrity team, and
12 he had coordinated a working group at the
13 director level with a bunch of different
14 agencies that had come together to specifically
15 look at the issue of trade-based money
16 laundering. And this working group at the
17 beginning was interested in just a basic kind of
18 101 presentation, what is trade-based money
19 laundering, what are all the different -- what
20 are the challenges and what do we need to be
21 aware of. And then as time progressed we
22 started to talk in a little bit more granular
23 detail about specific opportunities that could
24 be engaged in to address these types of
25 investigations. So that's specifically

1 referring to the British Columbia interagency
2 working group.

3 And then in terms of your second question,
4 leveraging LOs and ADOs abroad, my apologies for
5 the acronym. LOs are liaison officers abroad
6 and ADOs are analysts deployed abroad. And in
7 the RCMP we have both. They're deployed to a
8 particular country, but often they have a
9 certain jurisdiction that would comprise of
10 multiple countries within it that falls in their
11 area of responsibility. And as intelligence and
12 investigators working here in Canada we have the
13 opportunity to reach out to those folks to
14 leverage them as need be both on the
15 investigative side with our liaison officers and
16 our analysts, who are also looking at often the
17 same issue but from an intelligence perspective.

18 MS. LATIMER: Thank you. I ask that this be marked
19 as the next numbered exhibit, please.

20 THE COMMISSIONER: Very well, 348.

21 THE REGISTRAR: 348.

22 **EXHIBIT 348: RCMP Trade-Based Money Laundering:**
23 **A Law Enforcement Perspective**

24 MS. LATIMER: May I have document 17, please. Placed
25 before the panel, Madam Registrar.

1 Q This we had earlier been talking about the ACE
2 team in the CBSA trade fraud and TBML centre for
3 expertise. I did want to ask some questions
4 about that but with reference to these other
5 documents. Mr. Gibbons, do you recognize this
6 as a backgrounder entitled "Trade-Based Money
7 Laundering in Canada" dated September 2019?

8 A (JG) Yes, I do recognize it.

9 Q And did you draft this document?

10 A (JG) Yes, I did.

11 Q What was the purpose of this document?

12 A (JG) At the time it was prepared to educate our
13 new director general who had just come into the
14 position, if I recall, a few months prior. And
15 so it was to give her some broad situational
16 awareness on how we were viewing trade-based
17 money laundering at that time.

18 Q Was it your view at this time that there were
19 limited resources dedicated to trade-based money
20 laundering in Canada?

21 A Yes.

22 Q Can you describe that many sophisticated
23 criminal networks are increasingly using
24 professional money launderers to reduce exposure
25 to law enforcement; correct?

1 A Yes.

2 Q Can you turn to page 3, please, Madam Registrar.

3 In the second paragraph you say that:

4 "The identities of the international and
5 domestic money controllers/remitters who
6 broker laundering deals between organized
7 crime groups and professional money
8 launderers across borders remains a key
9 intelligence gap."

10 Is that correct?

11 A (JG) Yes.

12 Q Does that intelligence gap remain to this day?

13 A (JG) Yes.

14 Q And under "risk environment" you say that:

15 "The risk of TBML in Canada is very high.
16 While the full scope and scale of TBML in
17 Canada remains a gap, a sufficient body of
18 intelligence exists to indicate that
19 Canada is being routinely exploited for
20 its relatively weak AML controls,
21 including limited awareness of laundering
22 through the international trade and goods
23 in both the public and private sectors."

24 Correct?

25 A (JG) Yes, that's correct.

1 Q Does that remain your view today that Canada is
2 being routinely exploited for its relatively
3 weak anti-money laundering controls?

4 A (JG) I can only speak with respect to
5 trade-based money laundering which is the focus
6 of this document, and so when I'm using that
7 phrasing understand it to be related to
8 trade-based money laundering. I am not an
9 expert in other forms of money laundering or
10 other sectors outside of the trade domain
11 essentially. So just as a caveat and a preface.
12 But with that being said I believe that the
13 conclusion there largely remains the case,
14 although we've made some significant
15 improvements with the creation of the Centre of
16 Expertise. Understand that this document
17 predated the creation and the launch of the
18 Centre of Expertise, which was in April just of
19 this year of 2020. Since the centre was
20 launched we've conducted quite a bit of
21 outreach, not just within many different groups
22 within our agency who may not have had awareness
23 of how complex trade fraud or trade fraud in
24 general or how trade fraud can be used to
25 facilitate trade-based money laundering, as well

1 as with law enforcement partners and as well
2 with the private sector as well. So I think
3 what we've started to do is to increase
4 awareness from some of those groups where it was
5 our feeling may not have had sufficient
6 awareness to really have trade-based money
7 laundering on their radar and to be looking for
8 it actively within their own specific mandate.
9 So I think some progress has certainly been made
10 in that regard.

11 Q You say at the end of this sentence that there's
12 limited awareness of laundering through the
13 international trade in goods in both the public
14 and private sector. What do you mean about
15 laundering in the trade of goods in the public
16 sector?

17 A (JG) I guess what I would have meant by that is
18 that within certain arms of the -- when we're
19 talking about the private sector, I would have
20 been talking about the financial institutions
21 largely. But also I would have been speaking
22 about trade chain participants, whether we're
23 talking about customs brokers, freight
24 forwarders. It is our belief that there is not
25 a broad awareness of how international trade can

1 be used to launder goods, and we've identified
2 certain sectors within the private sector for
3 outreach over the next few years and to develop
4 more collaborative working relationships with
5 those areas to improve our collective knowledge.
6 So while there may have been pockets of very
7 deep knowledge within a given financial
8 institution for example in Canada about
9 trade-based money laundering, I think what we're
10 getting at is just broad and systemic awareness.
11 That's where the judgment comes down on it not
12 being as robust as perhaps it could be. And the
13 same would apply within the public sector as
14 well. Within the CBSA just to use my own agency
15 as an example, I think up until quite recently
16 our agency operated very much as what you might
17 call a classic customs organization. And many
18 customs organizations around the world, members
19 of the World Customs Organization I think still
20 view themselves as having a role of primarily
21 with respect to trade not having so much of that
22 gatekeeper role in terms of trade-based money
23 laundering but more of the revenue management
24 aspect of a traditional customs service, making
25 sure that appropriate duties are collected and

1 so forth. And the World Customs Organization
2 has actually polled some its members in the last
3 three to four years on precisely that question,
4 and as I recall it's been some time since I
5 looked at that work, which is available
6 publicly. The majority of the membership of the
7 World Customs Organization really did view
8 itself in that way. I would consider our agency
9 to be no different up until relatively recently,
10 and now through some of the risk assessment work
11 that's taken place here in Canada, some of the
12 collaboration with our partners under the aegis
13 of the anti-money laundering regime by Finance
14 Canada that risk assessment work that Finance
15 Canada has shepherded, I think we've come to the
16 view and we've come to the understanding now
17 that not only can the international trade system
18 be used to subvert Canada's duty regime, but it
19 can also be used as we described in quite a bit
20 of detail yesterday to launder funds. And I
21 don't think that our agency really saw itself in
22 the -- having a role in combatting money
23 laundering, but as is evidenced by the mere
24 existence of the unit that I work in now, that
25 attitude and that posture has very much changed.

1 And from a priority perspective you can also see
2 that reflected in our priorities. So for the
3 branch that I work in, the intelligence and the
4 enforcement branch, complex trade fraud is a top
5 tier priority for our organization where that
6 was not the case in the past. So we've done a
7 fair bit of work in that regard on boosting
8 awareness even within our own agency. That
9 attitude then extends right across the
10 Government of Canada where if the customs agency
11 who has the closest view on the goods that are
12 coming into and departing from Canada doesn't
13 really have that solid and sound awareness of
14 how processes can be manipulated for laundering,
15 I think the feeling was that some of our close
16 partners across the regime maybe wouldn't have
17 that same understanding. So we've done a lot of
18 work with our partners raising that overall
19 level of awareness and I think you can see some
20 examples in the evidence that's being provided
21 today, for example some of Bryanna's
22 presentation work within just the RCMP alone,
23 again just getting out to RCMP members and
24 civilian members and raising the awareness that
25 money laundering doesn't just occur in those

1 more classic paradigms in terms of bags of bulk
2 cash, in terms of abuse of banks, but it's also
3 occurring through trade.

4 Q Thank you. And next paragraph it talks about
5 Canada remaining "an attractive distribution
6 link in the international flow of narcotics
7 proceeds back to producers, rather than as a key
8 source or destination for the proceeds
9 themselves through trade-based money laundering
10 techniques." Why do you say that Canada is not
11 attractive as a key source or destination for
12 the proceeds themselves through these
13 techniques?

14 A (JG) That statement was based on a number of
15 very specific files that we were working on at
16 that time which showed a lot of strong
17 indicators of the black market peso exchange.
18 And so what we were seeing is that the suspected
19 proceeds did not appear to be originating from
20 within Canada, rather they were proceeds that
21 may have entered into the formal financial
22 system in other countries. For example, the
23 United States, and then we were seeing a pattern
24 of the transfer of those funds, typically by
25 wire transfer into Canada, specifically into

1 import/export companies in Canada. And then
2 goods obviously moving out from Canada, which
3 strongly suggests that the proceeds of crime are
4 just transitory, that they're on their way
5 through Canada to other jurisdictions. So that
6 was a particular focus of a number of those
7 files that we were working on at the time. To
8 my knowledge based on the work that I have been
9 doing regarding trade-based money laundering,
10 that is, I would say representative of the
11 majority of the suspected trade-based money
12 laundering that we're looking at. I haven't
13 seen a lot of instances myself in the work that
14 I do of the proceeds to the extent that they can
15 be identified, and acknowledging that as a
16 caveat in a lot of cases the existence of the
17 proceeds, the source of the money is not known
18 and may not even be knowable to us within the
19 CBSA. So with that caveat in place, what we
20 were seeing is more of the black market peso
21 exchange type scheme, less of any appearance of
22 the money actually originating here in Canada.

23 MS. LATIMER: Thank you. I ask that this be marked
24 as the next exhibit, please.

25 THE COMMISSIONER: 348 -- 349.

1 THE REGISTRAR: Exhibit 349.

2 **EXHIBIT 349: RCMP Trade-Based Money Laundering:**

3 **A Law Enforcement Perspective**

4 MS. LATIMER: Madam Registrar, may I have document at
5 tab 13 placed before the panel, please.

6 Q This is another presentation entitled "Trade
7 Fraud & Trade-Based Money Laundering Centre of
8 Expertise, 101 Overview." My first question is
9 did any of you author or prepare this
10 presentation?

11 A (JG) I was responsible for participating in the
12 development of this presentation, so I was a
13 co-author, I suppose.

14 Q Okay. Great. Could we turn to page 11, please.
15 Madam Registrar.

16 This is an accurate -- this accurately
17 represents those agencies within the Government
18 of Canada that have an AML or TF mandate; is
19 that correct?

20 A (JG) It identifies all of the federal regime
21 partners under the auspices of the anti-money
22 laundering and terrorist financing regime led by
23 Finance Canada. It also includes, as you can
24 see on the right side of the slide, regional
25 municipal police services and other

1 representatives from provinces and territories.
2 But yes, it captures the main federal regime,
3 anti-money laundering and terrorist financing
4 regime partners.

5 Q Thank you. Could we go to page 12, please. And
6 was the purpose of this slide just to show where
7 the Centre of Expertise fits within the CBSA
8 organization?

9 A (JG) That was one of the intentions behind that,
10 but it was also to demonstrate to recipients of
11 the presentation how many different areas just
12 within our own agency would need to play some
13 kind of a role in the work that the Centre of
14 Expertise was doing because trade-based money
15 laundering cuts across the mandates not just
16 within the Government of Canada but even within
17 just the Canada Border Services Agency itself.
18 So it was, yes, to situate the centre in the
19 context of the agency, but also to flesh out all
20 of the areas, as I said, that could conceivably
21 play some kind of a role from the operational
22 perspective or even the policy perspective.

23 Q Thank you. Could we go to page 13, please.
24 Does this remain an accurate representation of
25 the operating framework for the Centre for

1 Expertise?

2 A Yes.

3 Q Okay. Could we go to page 14, please, Madam
4 Registrar.

5 Could you just explain what we're looking at
6 here.

7 A (JG) Sure. I think what this slide was
8 intending to capture is roughly how the Centre
9 of Expertise generates some of its work, and so
10 if you focus your attention on the box towards
11 the lower left that says "Trade Fraud and TBML
12 Centre of Expertise - NHQ," national
13 headquarters, and sort of view this diagram
14 centred focusing in on that box. So all of the
15 organizations that you see to the left side of
16 the diagram are really a lot of the inputs
17 providing a lot of the raw information that
18 would go into the centre in order to develop
19 leads. So a big part of our work in the centre
20 is actually building up intelligence leads, so
21 trying to build up a picture of any manner of
22 potential complex trade fraud, including
23 trade-based money laundering. So it's showing
24 the various different inputs of and the inflow
25 of information from various sources, whether in

1 the Government of Canada, foreign partners, from
2 within other areas of CBSA. So that's really
3 the left side of the diagram. And then the
4 right side of the diagram shows potential
5 outputs. So within the centre this is where the
6 analysis is taking place, validation of the
7 information is taking place, consultation is
8 taking place and we're trying to build up robust
9 intelligence leads. And the purpose of building
10 up those intelligence leads is really twofold.
11 Depending on how the information is developed,
12 we may take information that has come in that is
13 really just where there's a mere suspicion of
14 some kind of complex trade fraud and we're
15 trying to essentially validate the suspicion at
16 that point using a variety of different data
17 sources. And one of the possible outcomes of
18 that work could be that we actually advance and
19 use that mere suspicion as a building block to
20 further articulate our grounds to suspect
21 through to a higher threshold, even to the
22 grounds to believe through a variety of
23 different types of analytical activity and
24 working with our -- we have resources based in
25 different CBSA offices across Canada working

1 sufficient grounds to make a referral for
2 investigation, we have to refer out for
3 additional information collection, additional
4 intelligence analysis at the regional level.
5 That's then fed back to us, which ideally would
6 subsequently lead to an investigative referral.

7 So what this concept of operations is really
8 trying to show is basically the plumbing that we
9 have in place to lead to ideally enhanced
10 referrals for criminal investigation under the
11 mandate of our agency and secondarily but
12 equally important to the RCMP for money
13 laundering. We also mentioned the Canada
14 Revenue Agency in there as well because
15 sometimes when you're looking at trade-based
16 money laundering in particular, because a lot of
17 trade-based money laundering relies on
18 misdescription of the customs process where
19 goods are being declared and a value is being
20 associated with those goods. When we talked
21 about phantom shipments yesterday and no goods
22 in fact left the country, well, that has
23 potential tax implications, and there's the
24 potential for tax evasion there. So in some
25 cases where we develop the grounds to suspect

1 potential offences under, for example, the
2 *Income Tax Act* we may make a referral of that
3 information to the Canada Revenue Agency to look
4 at in further detail under their own mandate.

5 So all of this slide is intended to capture
6 the plumbing, as I like to call it, for the lead
7 development work. Now that is just one aspects
8 of the work. It's a critical aspect of the work
9 that we, but the second critical pillar of the
10 work that we do in the Centre of Expertise is we
11 produce intelligence products, and those
12 intelligence products could be as a result of
13 some of the referrals that we've made to
14 criminal investigations because obviously we
15 western about specific TBML typologies as we're
16 building up these leads. But it could also be
17 in instances where there was no referral to
18 criminal investigations for a variety of
19 different reasons, but there's still value in
20 documenting the knowledge that has been required
21 about a threat actor, about a *modus operandi* and
22 about a particular vulnerability that may be
23 exploited by a threat actor that we want to try
24 to communicate to audiences, whether it's
25 tactical and operational information that would

1 benefit our frontline staff at ports of entry
2 through to our senior management within the
3 Canada Border Services Agency or senior
4 management across the Government of Canada or to
5 other stakeholders even outside Canada. So the
6 fundamental goal of the Centre of Expertise is
7 to generate knowledge, to determine the --
8 focused on complex trade fraud which includes
9 trade-based money laundering, and then it's just
10 a question of how that knowledge is used. And
11 in some cases, as depicted in this slide, some
12 of that knowledge will result in the generation
13 of investigative referrals to the enforcement
14 side of the Canada Border Services Agency, so
15 our investigative division and the investigative
16 divisions of other departments.

17 MS. LATIMER: Thank you. I ask that this be marked
18 as the next numbered exhibit, please.

19 THE COMMISSIONER: Very well.

20 THE REGISTRAR: Exhibit 350, Mr. Commissioner.

21 THE COMMISSIONER: Thank you.

22 **EXHIBIT 350: CBSA, Trade Fraud & Trade-Based**
23 **Money Laundering Centre of Expertise,**
24 **101 Overview, April 2020**

25 MS. LATIMER: Madam Registrar, may I have tab 15,

1 responsibilities related to the import or
2 export of goods and refer these instances
3 to the Centre of Expertise."

4 Has that in fact been occurring?

5 A (JG) Yes. It has occurred with respect to --
6 sorry, I'm just looking at all of the groups
7 identified here. I think that each of these
8 groups has at least in one instance made
9 referrals to us at the Centre of Expertise, yes.

10 Q Okay. It says then that:

11 "The centre will build on these grounds
12 which made referrals to the CBSA
13 investigators for trade fraud offences, as
14 well as the RCMP for trade-based money
15 laundering."

16 Correct?

17 A (JG) Yes, that's correct.

18 Q And to the best of your knowledge have there
19 been such referrals this year?

20 A (JG) This year we have a number of referrals in
21 progress, but the referrals themselves have not
22 actually been made to whether it be the CBSA
23 criminal investigations or other investigative
24 services. So have any left the centre yet, no.

25 Q Okay. Further down the page there's a heading

1 "How Does This Threat Manifest Itself in Canada"
2 and what is set out there are tactics and
3 schemes for trade-based money laundering;
4 correct?

5 A (JG) Yes.

6 Q And the first point that's made is that trade
7 fraud remains a key driver, and it says most
8 suspected instances of trade-based money
9 laundering occur through the use of commercial
10 trade fraud techniques and usually involves
11 goods exported from Canada primarily through
12 marine containerized shipping; is that correct?

13 A (JG) Yes, that's correct.

14 Q And does that remain the case now?

15 A (JG) I would say yes, largely that does remain
16 the case now.

17 Q And the reason for that is because of reduced
18 controls for exports; correct?

19 A (JG) In some circumstances, yes.

20 Q What do you mean in some circumstances?

21 A (JG) There is -- I would say it is my opinion
22 that there is somewhat of an imbalance between
23 border-related controls on Canada's export
24 program in comparison to controls that are in
25 place on the import side of the equation, so for

1 goods that are entering into Canada, but I would
2 also say with respect to this point that again
3 these judgments are being derived from files
4 that are in development right now. So we can
5 only provide analytic judgments based on what
6 we're actually looking at based on factual
7 information and essentially leads that we are
8 trying to develop. So the judgment I don't
9 think should be treated as broad and expansive
10 and necessarily representative of all the
11 trade-based money laundering that's occurring in
12 Canada. The judgment derives from the thin
13 slice of files that we're essentially looking at
14 right now or at that time, and at that time the
15 vast majority of the files that we were looking
16 at just based on how they came into us from a
17 variety of different sources so happened to
18 largely be within the export domain. And so
19 that is not to say that trade-based money
20 laundering is not happening with respect to the
21 import of goods. It's just that largely based
22 on the information that's available to us now
23 where suspicions have been raised from a variety
24 of different sources have largely been export
25 based. And when we look at that information and

1 we compare it against sort of that overall
2 control framework that's in place within the
3 agency, so the controls that have been put in
4 place to make the border resilient to threats, I
5 think there's probably a few more gaps in those
6 controls on the export side. And one of the
7 questions is the degree to which, which is still
8 unknown, is the degree to which how widely this
9 is known by threat actors and is being exploited
10 for that very purpose.

11 Q You make the point here that there's likely --
12 it's likely as a result of reduced controls for
13 exports in comparison to imported goods which
14 has the potential for revenue generation
15 depending on the tariff. Are you tying that
16 potential to revenue generation as a reason for
17 why there's increased control for imports as
18 compared to exports?

19 A (JG) We tend to -- in terms of the balance of
20 the resource complement in terms of the
21 commercial program and the trade program, the
22 trade program is focused on revenue. I mean,
23 that is their reason for being is to assure that
24 the appropriate revenue is being collected on
25 behalf of the Crown. And when you compare that

1 against the resources that are allocated to
2 CBSA's commercial program for export
3 verifications for example, the weight is in
4 favour of the trade program. There are more
5 what are called senior officers of trade
6 compliance, so think of them as sort of trade
7 auditors who conduct trade verification and
8 trade compliance activities than there are
9 export control or export verification officers
10 within the commercial program at the agency.
11 That's what that statement reflects.

12 Q Okay. Madam Registrar, can we go to PDF page 4,
13 please.

14 And here there's the heading -- do you see
15 the heading there "Locations" and the report
16 says "imports and export originating or
17 transiting from the following jurisdictions are
18 often an indicator of trade-based money
19 laundering"; correct?

20 A (JG) Yes. And this would be the same list that
21 we discussed earlier.

22 Q Okay. And at the bottom of the page is the
23 heading "Threat Actors" and then if you continue
24 on to the next page it provides that cartel drug
25 trafficking accounts for much of the proceeds

1 being laundered and most of the funds come from
2 the US, China, Hong Kong and the United Arab
3 Emirates; Is that right?

4 A (JG) Yes.

5 Q It goes on to say the majority of the suspected
6 trade-based money laundering are believe to be
7 conducted from professional money launderers at
8 arms length from the cartels. And we discussed
9 that already. That remain the case; correct?

10 A Yes.

11 Q And then on the next page under the heading
12 under the heading "Common Enablers of
13 Trade-Based Money Laundering" the report sets
14 out what appear to be gaps in the enforcement or
15 detection response to trade-based money
16 laundering. Is that fair?

17 A (JG) Yes, it is.

18 Q And then on the next page you have identified a
19 number of goods that have been identified as
20 part of trade-based money laundering schemes to
21 date; is that right?

22 A (JG) That's correct.

23 Q And after the bullet points it says:

24 "Precious metals and stones do not fall
25 under the definition of currency or

1 monetary instruments (with associated
2 reporting obligations)."

3 Is that a significant gap in reporting
4 obligations in your view?

5 A (JG) From the perspective of the Canada Border
6 Services Agency no, not really because they're
7 effectively treated as goods so they're still
8 subject to CBSA program legislation. If the
9 precious metals and stones were appropriately
10 defined, if they were redefined as currency or
11 monetary instruments they would fall under the
12 authority of the *Proceeds of Crime (Money*
13 *Laundering) and Terrorist Financing Act* which
14 our agency under part 2 of the PCMLTFA is still
15 responsible for administering on behalf of the
16 Government of Canada. So it's really I think
17 it's a technicality. It's not necessarily --
18 what it could lead to are some difficulties in
19 terms of determining who within the Government
20 of Canada would be responsible and what
21 potential authorities would come into play if it
22 was determined that there was a case where
23 precious metals and stones were being used for
24 laundering. So could lead to confusion, I
25 suppose.

1 Q You don't say it's a technicality in this
2 report. The last line in this sentence says:

3 "This gap increases the likelihood of
4 these high value commodities as money
5 laundering vectors."

6 Is that your view?

7 A (JG) It could. It could sort of because there
8 is some perhaps a bit of a lack of clarity in my
9 view in terms of where these goods fall with
10 respect to being treated under the customs
11 tariff and under the *Customs Act* versus under
12 the *Proceeds of Crime (Money Laundering) Act* it
13 could be different to coordinate responses from
14 the Government of Canada's perspective. I think
15 that's really the challenge because there are
16 many different Government of Canada entities at
17 play depending on which goods are subject to
18 which act of parliament. And so that could be
19 exploited either by a threat actor with their
20 knowledge or unintentionally just not being
21 aware that within the Government of Canada there
22 were different acts covering different
23 commodities, and I think that's what that
24 section is actually speaking to.

25 Q Well, it's not only a lack of clarity, though,

1 is it? Isn't it the case that precious metals
2 are a particularly vulnerable commodity to
3 trade-based money laundering in part because
4 they're so easy to smuggle and trade?

5 A (JG) I'm not sure that they're necessarily easy
6 to smuggle. I think from the customs
7 perspective and from my experience with these
8 commodities I think the difficulty with precious
9 metals and stones comes down to going back to
10 some of our conversation yesterday around
11 valuation. So I think I used the example
12 yesterday of you're declaring gold but the real
13 shipment is lead, or you're declaring lead but
14 the real shipment is gold. I think that was
15 sort of an extreme example. But I think a real
16 concern could be where it is some form of gold
17 but it's been declared as a certain type or
18 quality of gold, it would be very difficult if
19 examined for a border services officer to make
20 that determination that it is exactly as
21 described without having a lot of training.
22 Making determinations around value for precious
23 metals and then equally for precious stones
24 requires a pretty high degree of training and so
25 without access to that very in-depth training it

1 can be very difficult to place a value on those
2 goods, which is what makes them so susceptible
3 to trade-based money laundering above and beyond
4 the fact that those commodities carry, you know,
5 an inherent value.

6 MS. LATIMER: I ask that that this report be marked
7 as the next exhibit, please.

8 THE COMMISSIONER: 351.

9 THE REGISTRAR: 351.

10 **EXHIBIT 351: CBSA, CBSA Knowledge Pool on**
11 **Trade-Based Money Laundering, undated**

12 MS. LATIMER: Madam Registrar, may I have the
13 document at tab 5 please put before the witness.

14 Q And, Mr. Gibbons, I see that you are a member of
15 the Criminal Intelligence Service of Canada
16 anti-money laundering working group; is that
17 correct?

18 A (JG) Yes, I am.

19 Q I'm going to ask you about these CISBC documents
20 in the first instance, but I'll invite other
21 members of the panel if they have something to
22 add please feel free. First of all, it's
23 correct that the CISBC produces annual
24 provincial threat assessments; right?

25 A (JG) I'm sorry, at the provincial level?

1 Q Yes.

2 A (JG) I believe that they are. I am typically
3 not reviewing provincial threat assessments. I
4 would review national level threat assessment
5 that are produced by the Criminal Intelligence
6 Service of Canada, the national office, but it
7 is my understanding that at least on a fairly
8 regular basis the provincial bureaus produce
9 these assessments, yes.

10 Q Okay. Do you recognize this as an excerpt from
11 the 2016 CISBC provincial threat assessment
12 addressing money laundering?

13 A (JG) I do.

14 Q Is this report one that is disseminated to the
15 CBSA?

16 A It may be disseminated to parts of the CBSA
17 potentially within the CBSA's pacific region.
18 It's certainly something that I only saw in the
19 context of the preparations for the commission.
20 So it's possible that some area within the
21 agency probably within our pacific region may
22 have been provided with the document either in
23 draft form or a final product, but I can't say
24 with any certainty.

25 Q Okay. Is this report disseminated to law

1 enforcement in British Columbia?

2 A (JG) I can't answer that question.

3 Q Ms. Gateley?

4 A (BG) Yes, I'm probably better suited to
5 answer this question primarily because this is
6 actually a section that resides just down the
7 hall from me and I have contributed to documents
8 such as in this the past. The CISBC/YT, or the
9 Criminal Intelligence Service, is housed within
10 RCMP headquarters in British Columbia and so
11 this would be a provincial document that they
12 prepare every year as part of their provincial
13 threat assessment.

14 Q Who is the intended audience of this document?

15 A (BG) Well, criminal intelligence or CISBC has a
16 number of -- essentially an amalgamation of a
17 number of different agencies and partner
18 agencies. They have category 1 agencies and
19 category 2 agencies within the Government of
20 Canada. And the intended audience of these
21 documents are for their agency partnerships or I
22 guess the partners that compile the Criminal
23 Intelligence Service BC. This particular
24 document is protected B, so it's going to
25 contain some sensitive information that's

1 industry and this was consistent within BC where
2 indicators of trade-based money laundering were
3 present in 2015; correct?

4 A (BG) Correct, yes. That's what it states.

5 Q And if you turn to page 23, please, Madam
6 Registrar, in the bottom right-hand corner.
7 Five lines from the bottom the report provides
8 that:

9 "The US Department of State noted that
10 trade-based money laundering indicators
11 are present in Canada. The assessment
12 cannot be broken down for BC and the
13 Yukon; however, BC is consistent with the
14 environment required to support
15 trade-based money laundering. It has
16 ports, a large volume of international
17 trade, resources and goods exports,
18 available professional services, and a
19 stable accessible financial system."

20 Those are factors that you understand to be
21 consistent with the environment required to
22 support trade-based money laundering; correct?

23 A (BG) Absolutely. Yeah. Those are facilitation
24 pieces that even though this document was
25 created several years ago would likely still

1 stand today.

2 Q Okay. If we could go to the next page, please,
3 Madam Registrar.

4 The report here has the heading "Money
5 Laundering Associated With Precious Metals" and
6 my question is back to what I was discussing
7 with you, Mr. Gibbons, a few moments ago is
8 whether you understand precious metals to be a
9 particularly vulnerable commodity to trade-based
10 money laundering?

11 A (JG) Yes.

12 Q Okay. On page 25 if we go to the next page,
13 please, Madam Registrar.

14 The report explains why that might be the
15 case and it says:

16 "Additionally, gold and precious metals
17 are easy to smuggle and trade, and
18 typically provide a stable return with
19 little inherent risk in the short term.
20 From the perspective of trade-based money
21 laundering, the physical commodity may
22 never have to move from one location to
23 another if the intent is only to support
24 the movement of large amounts of money.
25 Given the high value of gold, it can be

1 used on an invoice as a justification for
2 transferring significant sums of money
3 between companies and across border."

4 And I take it you would agree with all of that,
5 don't you, Mr. Gibbons.

6 A (JG) I wouldn't necessarily say that gold and
7 precious metals are easy to smuggle. I'm not
8 quite sure what is meant by that term and I
9 would probably ask the analyst who wrote it to
10 provide some clarification. That's something
11 that if I was peer reviewing a document like
12 that that I would ask for some explanation of,
13 some quantification of. I don't understand what
14 they mean by "easy to smuggle." In terms of how
15 gold is traded, I mean, it would be no different
16 necessarily from any other commodity. There's
17 nothing inherent about gold itself that makes it
18 easier to trade than lettuce or meat products or
19 any other good really, so I would have cause to
20 question that statement. And as well with
21 respect to the statements around how the
22 physical commodity may never have to move from
23 one location to the other, that's really true
24 again of any good, and we talked about this a
25 fair bit yesterday around that, because I think

1 what is being talked about here is the idea of
2 the phantom shipment, about creating the
3 pretense of trade and then using that as a
4 mechanism to provide cover for in most cases the
5 wiring of money back and forth between one
6 jurisdiction and another. Well, why was this
7 wire paid? Well, it was because of a gold
8 shipment or it was because of a shipment of
9 lettuce. I mean, it's just -- these factors are
10 as true of any commodity as they are of gold and
11 other precious metals, or precious stones for
12 that matter. From my perspective, the core
13 vulnerability goes down to the fact that
14 something that's presented as a diamond could be
15 in fact cubic zirconia and how would a border
16 services officer at a port of entry without
17 extensive training be able to make that
18 determination that it is has certain cut clarity
19 and so forth and that it's not cubic zirconium.
20 And the same applies to gold. It is 18 carat
21 gold? Is it 24 carat gold? It's beyond the
22 ability of anyone but those officers who have
23 received training. I think that's the primary
24 concern. But with respect to the other concerns
25 identified here it's as true of any other good.

1 Q In says in the last paragraph on this page that
2 "additional strategic analysis and assessment is
3 required in the area of precious metals and
4 stones, given the relevance of the natural
5 resource industry in Northern BC and the Yukon"
6 and it notes:

7 "The FATF has published a relevant
8 assessment on this subject; however, it is
9 believed that a significant amount of
10 environmental scanning and research is
11 required before any assessment can be made
12 for BC and the Yukon."

13 My question is whether anyone on this panel is
14 aware of any such strategic analysis or
15 assessment of precious metals and stones for
16 this region that has been brought to anyone's
17 attention on this panel.

18 A (JG) I am not aware. No.

19 (BG) Nor am I aware of anything specifically
20 related to precious metals or stones
21 specifically to British Columbia, although I
22 guess CBSA/YT would have to be canvassed to
23 ensure that that's the definitive case.
24 Certainly nothing that's crossed my desk. But
25 just going to back to the prior question about

1 smuggling of precious metals and stones, I think
2 if we look at it intuitively and I think from an
3 intelligence analyst perspective in
4 British Columbia, it's certainly the advantage
5 if -- you know, I was thinking okay, if I was
6 organized crime here how would I move a
7 relatively large value across the border as
8 discreetly as possible? While certainly stones
9 and precious metals hold a significant amount of
10 value in a relatively small package, so not that
11 I can really point to any specific incidents
12 where this has occurred, but it's certainly
13 intuitive that it would be very easy to put a
14 set of diamond earrings in your ear and go
15 across the border and not claim it at all and
16 now you've just moved a very considerable amount
17 of value across the border either one way or the
18 other depending on whether the corresponding
19 illicit commodity, so say drugs, either it's
20 drugs coming up into Canada or drugs that we've
21 maybe synthetically manufactured here that we're
22 shipping abroad, it's foreseeable to see that
23 corresponding financial transaction occurring in
24 the package of a very small stone or gold or
25 precious metals. And also the anonymity social

1 associated to those items presents opportunity
2 as well. It's a little bit different than fiat
3 currency that actually has a serial number with
4 a stamp on it that can be traced. Gold can
5 easily be melted down and it's not often very
6 easy to track. So I think there's definite
7 opportunities there and it could -- it's
8 definitely potentially a very vulnerable
9 industry that we may just not be scrutinizing as
10 closely as we could be.

11 MS. LATIMER: I ask that this report be marked as the
12 next numbered exhibit, please.

13 THE COMMISSIONER: 352.

14 THE REGISTRAR: Exhibit 352.

15 **EXHIBIT 352: Criminal Intelligence Service**
16 **British Columbia & Yukon Territory, CISCBC/YT**
17 **2016 Provincial Threat Assessment, Part "B",**
18 **undated**

19 MS. LATIMER: Madam Registrar, may I have the
20 document please at tab 6.

21 Q Ms. Gateley, you recognize this as an excerpt
22 from the 2017 CISCBC/YT provincial threat
23 assessment addressing money laundering; correct?

24 A (BG) I do, yes.

25 Q On the first page it has the number 5 at the

1 bottom in the lower right-hand corner. The
2 fourth bullet point again addresses the
3 indicators of money laundering, that there are
4 indicators that it's occurring in BC, and it
5 says this was first noted in 2015 and it remains
6 present in trade-based money laundering and
7 poses significant challenges for intelligence
8 and enforcement agencies within the global
9 public safety industry, and it notes that as
10 noted by FINTRAC interagency analysis is
11 required. Is this consistent with your
12 understanding that in 2017 there continued to be
13 indicators of trade-based money laundering that
14 was occurring in BC?

15 A (BG) Sorry, can you rephrase the question.

16 Q My question is is it consistent with your
17 understanding that trade-based money laundering
18 continued to be a significant challenge for
19 intelligence and enforcement agencies in BC in
20 2017?

21 A (BG) Yes.

22 Q And do you know what this interagency analysis
23 is that's referred to here and whether that was
24 conducted?

25 A (BG) No, I don't and I had a look at this

1 document and this one doesn't have the footnotes
2 related to it. I'm not sure what the sourcing
3 is and I didn't conduct the research on it,
4 although I do know the folks very closely at
5 CISBC. I know they have very robust methodology
6 that they employ and they're other very
7 thoughtful when they put these documents
8 together. They are well sourced. So certainly
9 there would probably be a copy of this somewhere
10 with the sourcing attached in more details to
11 kind of flesh that sentence out a little bit
12 more. But certainly so I can't say specifically
13 what interagency analysis they're referring to,
14 but I think in our presentation today and
15 yesterday as well that that's certainly a key
16 opportunity that keeps coming up again and again
17 or a need, I suppose, that some level of
18 interagency cooperation is required to
19 effectively analyze these types of schemes.

20 MS. LATIMER: Okay. I ask that this be marked as the
21 next numbered exhibit, please.

22 THE COMMISSIONER: 353.

23 THE REGISTRAR: 353.

24 **EXHIBIT 353: Criminal Intelligence Service**

25 **British Columbia & Yukon Territory, CISCBC/YT**

1 **2017 Provincial Threat Assessment, Part "B",**
2 **undated**

3 MS. LATIMER: Madam Registrar, may I have the
4 document at tab 7, please.

5 Q Ms. Gateley, you recognize this as an excerpt
6 from the 2018 CISBC/YT provincial threat
7 assessment addressing money laundering; correct?

8 A (BG) Yes, I do.

9 Q Madam Registrar, if you turn to page 10, please,
10 on the bottom right-hand corner.

11 There is a heading here "Trade-Based Money
12 Laundering" and I'm looking at the bullets under
13 that. And I suppose this question is perhaps
14 best addressed to Acting Staff Sergeant Sharma.
15 Is it your view that consistent with the second
16 bullet that at this time in 2018 there were two
17 BC-based organized crime groups known to be
18 involved in trade-based money laundering and
19 that this knowledge was believed to be an
20 underrepresentation of that activity?

21 A (SS) Sorry, Ms. Latimer, if the question is if I
22 agree with that bullet point, the short
23 answer is yes.

24 Q Are there more BC-based organized crime groups
25 known today to be involved in trade-based money

1 laundrying?

2 A (SS) In comparison to that bullet point I would
3 say it's still a dark figure. It's still an
4 unknown as to how many groups there are. So the
5 short answer is no, we can't really quantify
6 that because it is still in a very
7 underrepresented area of analysis for
8 enforcement laws and intelligence just because
9 of the nature of the volume and some of the
10 different factors we've discussed so far.

11 Q If we go over to the next page please, Madam
12 Registrar.

13 The last bullet point here says that the
14 scope, methods and techniques used in
15 trade-based money laundrying are not well
16 understood by law enforcement. Do you agree
17 that that remains the case today?

18 A (SS) Yes. I do agree with that. The efforts
19 have occurred since 2017. At least from my
20 experiential standpoint it is a little better in
21 terms of our awareness of it, but in making any
22 progressive inroads I'd still say that there's a
23 lot more room for improvement.

24 MS. LATIMER: I'd ask that this be marked as the next
25 numbered exhibit, please.

1 THE COMMISSIONER: 354.

2 THE REGISTRAR: 354.

3 **EXHIBIT 354: Criminal Intelligence Service**
4 **British Columbia & Yukon Territory, CISBC/YT**
5 **2018 Provincial Threat Assessment, Part "B",**
6 **undated**

7 MS. LATIMER:

8 Q Can we have the document, please, at tab 9.

9 This is a 2018 CISBC/YT report entitled
10 "Trade-Based Money Laundering." I'm not sure
11 who to best address this question to so I'm
12 going to start with Ms. Gateley. Do you
13 recognize this report?

14 A (BG) Yes, I do. I know the analysts that put
15 this together. This was two years ago, but I
16 did review her report as she was putting it
17 together and as it was finalized.

18 Q Who is the intended audience of a report of this
19 report?

20 A This would be CISBC partner agencies. Again it
21 is classified at the protected B level, so
22 probably it would be best suited towards law
23 enforcement or individuals within like agencies
24 that have a higher level of security clearance.

25 Q Okay. Could we go to the first page of this

1 report, please, Madam Registrar.

2 And there's some key findings that are set
3 out here on the first page and I'm focusing for
4 the moment on the last bullet here which sets
5 outs challenges based by law enforcement when
6 investigating trade-based money laundering. One
7 challenge is there's no formal system to
8 investigate these complex schemes or to collect
9 and share information and intelligence from
10 various agencies. Is that consistent with your
11 experience today?

12 A (BG) Yes, absolutely.

13 Q And then lastly it says there's differences
14 between Canada and other countries. Do you know
15 what the challenge is there that's being
16 highlighted?

17 A (BG) There are legislative differences. Well, I
18 mean essentially it depends what country they're
19 comparing it to, but all countries are slightly
20 different than us and have different legal
21 regimes to varying degrees than ours. We have
22 some legislative, I guess, and regulatory
23 opportunities within Canada that other countries
24 don't have. I think I mentioned yesterday
25 briefly that FINTRAC collects international wire

1 transfers of \$10,000 or more. That's something,
2 information that Canada collects that many other
3 countries around the world don't, including our
4 partners in the United States. So it doesn't
5 specifically go into a lot of detail about what
6 these differences are, but it's very intuitive
7 that there are very significant differences
8 between different countries and that certainly
9 poses a challenge as we try to analyze both
10 sides of a trade transaction, of an
11 international trade transaction, when we have to
12 work with other countries. The particular
13 concern is when that trade transaction ends up
14 or is routed through a non-cooperative
15 jurisdiction or potentially even a free trade
16 zone where there's just not a lot of information
17 that would go along with that transaction that
18 would be easily accessible to us.

19 Q If we turn to page 9, please, at the bottom of
20 the page, Madam Registrar.

21 And I'm looking at the third paragraph here.
22 Staff Sergeant Sharma, I'm going to ask you
23 about this. It's the report sets out that
24 trade-based money laundering and proceeds of
25 crime investigations are often lengthy, complex

1 and require specialized investigational teams,
2 all of I which strain police budgets and
3 resources. My question is is it your
4 experiences that those kinds of investigations
5 put a strain on your available resources in
6 policing?

7 A (SS) Yes, Ms. Latimer. The short answer is yes.
8 Of course they are complex lengthy and they do
9 require a consistency of effort throughout as
10 we're engaging with operational and imminent
11 needs on a daily basis on with other priority
12 files. So short answer is yes, they do produce
13 a strain.

14 Q But to put it sort of more pointedly is it your
15 view that there are sufficient resources
16 available to investigate these kinds of crimes?

17 A (SS) I would respond back with yes, there are,
18 but those sufficient resources need better
19 training to be able to pick out the indicator so
20 that they can respond quicker. So we do have
21 the resources, but to put it more bluntly of
22 course we would benefit from additional
23 resources that I can't -- I would be remiss if I
24 didn't admit that. But in terms of officers,
25 availability of resources at present, I would

1 say that the officers, the investigators are
2 there, but could they be better trained to
3 observe indicators and move faster and be able
4 to pivot and leverage on to these investigations
5 in a more sufficient fashion, and I say with
6 more training they would be able to do that.

7 Q Okay. The next sentence suggests that part of
8 the complexity in these investigations is
9 proving the source of the illicit funds, and
10 this report suggests that complexity leads
11 investigations to focus on the predicate
12 offences rather than I suppose the money
13 laundering offence. Is that consistent with
14 your experience?

15 A That is correct. That is consistent with my
16 experience.

17 Q The last sentence it says that there's little
18 post-investigative research takes place and that
19 means that intelligence is not developed
20 regarding BC-based organized crime groups
21 involved in trade-based money laundering. Is
22 that still the case today?

23 A (SS) No, it's deferred slightly since I would
24 say my experience in 2017 and onwards. There is
25 a lot of post-case analysis occurring on some of

1 these types of files, because our understanding,
2 we missed areas of concern. As I alluded to
3 yesterday in my own presentation, was talking
4 about something that I refer to from my own
5 subjective point of view as perspective bias,
6 there is post case analysis on some of these
7 files where we do have an understanding that we
8 did miss MOs. And it is definitely changing,
9 but it could be better.

10 MS. LATIMER: I'd ask in this report be marked as
11 next numbered exhibit, please.

12 THE COMMISSIONER: Very well. I think we're at 355,
13 Madam Registrar.

14 THE REGISTRAR: Exhibit 355.

15 **EXHIBIT 355: Criminal Intelligence Service**
16 **British Columbia & Yukon Territory, CISBC-YT**
17 **Money Laundering Collection Initiative (2018),**
18 **May 3, 2018**

19 MS. LATIMER:

20 Q Just before taking this document down, just a
21 matter of housekeeping, could we turn back to
22 place 5, please, Madam Registrar. You'll see,
23 Staff Sergeant Sharma, if you look on the
24 right-hand side the boxes here. Like if you
25 look at the third box for example that's titled

1 "primary TBML techniques" and then the bolded
2 word "invoice fraud," and do you see that it
3 appears there's text cut off in that box?

4 A (SS) Yes, Ms. Latimer, I do see that.

5 Q Can we take that down, Madam Registrar. I'd ask
6 that document 10 please be placed before the
7 panel. Here if you look at that same box, do
8 you see that the text is there?

9 A Yes, I see that.

10 MS. LATIMER: Okay. I'd ask that this be marked as
11 the next numbered exhibit, please.

12 THE COMMISSIONER: Very well, 356.

13 THE REGISTRAR: 356.

14 **EXHIBIT 356: Criminal Intelligence Service**
15 **British Columbia & Yukon Territory, General**
16 **Framework of how TBML fits into the ML Process,**
17 **February 13, 2018**

18 MS. LATIMER: Madam Registrar, may I have tab 19
19 please, placed before the panel.

20 Q Mr. Gibbons, I think you're the appropriate
21 person to ask about this, but I'd invite others
22 to jump in if I'm wrong about that. Do you
23 recognize this as an intelligence brief entitled
24 "COVID-19 Implications For Trade Fraud" dated
25 April 2020?

1 A (JG) Yes, I do.

2 Q Are you familiar with this document?

3 A (JG) Yes, I am.

4 Q And essentially this document describes how
5 criminal networks adapted their activities to
6 profit from the COVID-19 pandemic; correct?

7 A (JG) That's correct.

8 Q And some of those adaptations were short-term
9 increased use of customs fraud techniques to
10 profiteer from COVID-19 related goods and to
11 launder through trade; correct?

12 A (JG) Yes, that's correct.

13 Q And the report concludes that that increase was
14 likely to be offset by a looming global supply
15 chain contraction; correct?

16 A (JG) With respect to trade-based money
17 laundering as I recall, yes. I'm not sure with
18 respect to profiteering with respect to personal
19 protective equipment and so forth.

20 Q Okay. If you go to the -- if we go to the
21 conclusion of this report on page 3 number 12 it
22 says that COVID-19 further weakens anti-money
23 laundering controls over global trade both
24 because financial institutions have a reduced
25 capacity for AML due diligence oversight and

1 reporting and because of workplace limitations;
2 is that right?

3 A (JG) Yes.

4 Q And that's an accurate statement to the best of
5 your knowledge?

6 A To the best of my knowledge.

7 Q And it also says another problem is because
8 governments were focused on more immediate
9 public safety concerns and harm reduction;
10 correct?

11 A (JG) Yes, that is correct. But I would
12 characterize these as assessments. These are
13 intelligence assessments, so these are
14 statements that come from inference as opposed
15 to facts. For example, interviewing staff
16 working in the anti-money laundering arms of
17 banks. These are logical inferences that are
18 being made.

19 Q Okay. Number 13 indicates that there remain
20 training and awareness shortfalls facing both
21 customs services and financial institutions in
22 terms of detecting trade-based money laundering.
23 Do you agree with that?

24 A (JG) I do.

25 MS. LATIMER: May I ask that this document be marked

1 a the next numbered exhibit, please.

2 THE COMMISSIONER: Yes, very well. That will be 357

3 I think we're at.

4 THE REGISTRAR: Yes, exhibit 357.

5 **EXHIBIT 357: CBSA, COVID-19 Implications for**

6 **Trade Fraud, April, 2020**

7 MS. LATIMER:

8 Q Can we have the document at tab 18 please placed
9 before the panel. Mr. Gibbons, do you recognize
10 this as an intelligence tactical guide entitled
11 "Trade-Based Money Laundering Overview" and
12 dated June 2020?

13 A (JG) I do.

14 Q Did you prepare this tactical guide?

15 A (JG) I did.

16 Q What's the purpose of this document?

17 A (JG) This was intended to be one of the first
18 documents to be issued and in fact was one of
19 the first assessment documents that was issued
20 by the at that time very new Centre of
21 Expertise, and it was supposed to provide CBSA
22 officers, so frontline officers, commercial
23 officers, trade officers, intelligence officers,
24 intelligence analysts, criminal investigators
25 with a broad lay of the land. Effectively a 101

1 on trade-based money laundering and trying to
2 capture some of the existing knowledge at that
3 particular point in time about what's known
4 about trade-based money laundering within the
5 CBSA.

6 Q Okay. This document provides that the
7 information came from active CBSA leads and
8 ongoing RCMP investigation, several dozen
9 FINTRAC disclosures, intelligence from
10 international and domestic law enforcement
11 partners as well as typology information from,
12 Canadian and US financial intelligence units,
13 the FATF and several NGOs specializing in
14 financial crime correct?

15 A (JG) Correct.

16 Q Fair to say this document provides a similar
17 narrative to what you've described accompanying
18 your presentation today?

19 A (JG) It would, yes. It was designed with that
20 in mind.

21 MS. LATIMER: I'd ask that this be marked as the next
22 numbered exhibit, please.

23 THE COMMISSIONER: 358.

24 THE REGISTRAR: Exhibit 358.

25 **EXHIBIT 358: CBSA, Trade-Based Money Laundering**

1 awareness, heightened caution if they are
2 interacting with goods that are imported into
3 Canada using that particular tariff item.

4 Q And essentially under the summary the document
5 explains that the Pacific Region Intelligence
6 Section had identified a potential laundering
7 scheme employing cross-border movement of
8 electronics and these two tariff items; correct?

9 A (JG) Yes.

10 Q And on the next page, if we go to the next page,
11 please, Madam Registrar.

12 The suspected scenario is described in the
13 blue box; correct?

14 A (JG) Yes. I'm not sure the degree to which that
15 may match. This could be a hypothetical
16 scenario. I'm not sure the degree to which it
17 would characterize the underlying files that may
18 have been used in the preparation of this
19 report.

20 Q Okay. If we go to page 3, please. Under
21 "Analysis" is it fair to say what's occurring
22 here is that the CBSA basically explained why
23 these kinds of shipments should be considered
24 suspicious?

25 A Yes, these would be I suppose indicators, yes.

1 Q And some of the reasons are that, like if you
2 look at number 12, this kind of transaction is
3 not a sound business practice for Canadian
4 businesses because the cost of importing the
5 goods combined with the cost of sale and export
6 is too high; correct?

7 A Yes.

8 Q And that 13 because the practice of exporting
9 and reimporting goods not made in Canada doesn't
10 make sense; correct?

11 A (JG) In the context of these goods, yes.

12 Q And then if we go to page 4, beginning at
13 paragraph 19 could you just help with the what
14 is a BSO and an SOTC?

15 A (JG) So a BSO is a border service officer and I
16 think in the context of this paper it would be a
17 border services officer who is working within
18 the commercial stream, so processing of goods
19 and making admissibility determinations
20 regarding goods, say imports into Canada or
21 exports. And you had asked about an SOTC as
22 well. That would be a CBSA officer working in
23 the CBSA's trade program. So the acronym stands
24 for senior officer of trade compliance. So
25 you've got two different arms of the CBSA here,

1 the commercial BSO would be administering the
2 requirements of the commercial program whereas
3 the senior officer of trade compliance that's
4 sort of a trade auditing or trade verification
5 activity that pertains to the final accounting
6 of goods. So again just the commercial program
7 is designed to make decisions about whether
8 goods can be, for example, released into Canada
9 should they come into the country. A senior
10 officer of trade compliance would say now that
11 they're here have they been appropriately
12 accounted for, if there are any duties or taxes
13 owing have they been paid, and is the
14 importation of the goods compliant with our
15 program requirements.

16 Q Okay. And the paragraphs that follow
17 essentially describe the actions that these
18 Canadian officials should undertake when they
19 see these kinds of transactions; correct?

20 A (JG) Yes, correct.

21 MS. LATIMER: I'd ask that this be marked as the next
22 numbered exhibit, please.

23 THE COMMISSIONER: 359.

24 THE REGISTRAR: Exhibit 359.

25 **EXHIBIT 359: CBSA, Electronics and Canadian**

1 **Goods Returned/The Abuse of Tariff Codes 9813**
2 **and 9814 in TBML ICAP, October 1, 2020**

3 MS. LATIMER: Mr. Commissioner, I've completed my
4 questioning for this morning and I understand
5 that Transparency International has some
6 questions. My suggestion is that we do not take
7 a break until we complete this panel because we
8 do need to take a break before moving on to our
9 next witness.

10 THE COMMISSIONER: All right. We can certainly take
11 a brief break in anyone wishes it at this point,
12 but unless somebody puts up their hand virtually
13 we'll carry on with Mr. Gratl.

14 MR. GRATL: Thank you, Mr. Commissioner.

15 THE COMMISSIONER: Mr. Gratl, I understand you have
16 20 minutes allocated. Is that correct?

17 MR. GRATL: Yes. I'll try to be brief.

18 **EXAMINATION BY MR. GRATL:**

19 Q Mr. Gibbons, having an open beneficial ownership
20 registry for real estate and for companies will
21 be a benefit to the CBSA; is that right?

22 A (JG) It certainly would be, yes.

23 Q Okay. And I take it for related party dual
24 presence party transactions that are cross
25 border in nature, it would be of assistance or

1 the primary mechanism of enforcement for TBML is
2 fraud, essentially fraud or misleading
3 statements?

4 A (JG) Yes. The customs component of trade-based
5 money laundering it's that as I was saying
6 previously it's the commission of trade fraud
7 where elements of customs documentation,
8 shipping documentation are manipulated to enable
9 the laundering of illicit funds, yes.

10 Q Sure. And the *Customs Act* contains offences,
11 summary and indictable, for fraudulent or
12 misleading characterizations of the goods
13 crossing the border?

14 A (JG) That is correct.

15 Q Would it be of assistance to CBSA to enhance the
16 requirements to describe the goods in greater
17 detail beyond the requirements that are
18 currently set out in the *Customs Act* and its
19 regulations?

20 A (JG) I'm not sure whether that would be
21 possible. The way that the goods are described
22 are really in two parts. So they're described
23 according to the customs tariff and that's based
24 on the harmonized system of goods
25 classification. So that's a system that was

1 implemented and agreed to by the members of the
2 World Customs Organization. So it's a very
3 detailed numbering system, it's a nomenclature
4 for characterizing goods. Just to give you an
5 example, there are 99 chapters in the Canadian
6 tariff and each of those chapters can be
7 subdivided down to a ten-digit number. So goods
8 can be described very specifically through the
9 harmonized system down to the ten-digit level,
10 but that's always accompanied by a text-based
11 description of the goods themselves, so what are
12 these goods commonly known as. And I think the
13 combination of the two, I can't see at this
14 moment in time a different way that we could
15 provide kind of a more robust description on
16 customs documentation. I think on occasion some
17 of the text descriptions that are provided on
18 customs documents will be questioned by our
19 border services officers because perhaps they're
20 not quite precise enough. So I think some
21 additional precision could be provided, but
22 beyond that I would obviously welcome any ideas
23 in that regard for how we can make our customs
24 documents even more -- or sorry, the goods
25 descriptions even more easily understood.

1 Q How about a requirement for a declaration of
2 common beneficial ownership as between the
3 shipper and receiver?

4 A (JG) I think one of the challenges of something
5 like what you're proposing, remembering that the
6 mandate of our agency is as much about the
7 facilitation, so the free movement of legitimate
8 people and goods to and from Canada as well as
9 that security or enforcement imperative, and one
10 of the concerns I think with introducing some of
11 those additional regulatory requirements,
12 because I take it that's what you're suggesting
13 there, could result in perhaps severely reducing
14 the flow of goods and it could lead to potential
15 backlogs at the border. I take your point,
16 though, and I see where you may be coming from
17 in that sense in terms of having enhanced
18 knowledge of beneficial ownership, real true
19 beneficial ownership. There may be other ways
20 to go about that such as -- and I believe
21 something you mentioned previously is a
22 beneficial ownership registry whether at the
23 provincial or even the national level but then
24 also being able to tap into the beneficial
25 ownership registries of other countries on a

1 more systematic and systemic basis.

2 Q Yes, what I have in mind is just an alteration
3 of the current customs form where a shipper
4 would check a little box yes or no if they were
5 a common -- if they had common beneficial
6 ownership with the receiver. Surely that
7 wouldn't create a backlog at the border, would
8 it?

9 A (JG) Right. I apologize. I think I
10 misunderstood your initial question. I think
11 again without working in CBSA's commercial operations
12 I'm not sure that I would be appropriately
13 equipped to speak to how that would place
14 demands on CBSA's commercial operations. I
15 think, though, speaking from the perspective of
16 someone who's interested in preventing
17 trade-based money laundering from occurring I
18 could see that as potentially being a useful
19 tool. But again just reinforcing that I
20 wouldn't be in a position to speak to in any
21 great detail what kind of specific implications
22 or strains or pressures that would place on our
23 commercial operations.

24 Q Sure. And similarly, a declaration of arms
25 length -- non-arms length transactions between

1 shippers and receivers might be of utility in
2 identifying, say, when one family member ships
3 something to another family member. That might
4 be of utility in the same way?

5 A (JG) In a similar manner I could see that being
6 of utility, yes.

7 Q And it would do that really without placing too
8 much burden on, say, GM or Ford, they're
9 constantly in the business of shipping auto
10 parts backwards and forwards to each other as
11 they assemble cars in one place or another.
12 It's nothing going to be a big administrative
13 burden on legitimate companies like that, will
14 it?

15 A (JG) That I cannot speak to. I would not want
16 to presume to have knowledge about what kind of
17 implications those would have.

18 Q All right. Do you appreciate that in addition
19 to any analysis that CBSA can bring to bear or
20 the RCMP can bring to bear, the general public
21 is quite capable of contributing to an analysis
22 of whether transactions are suspicious or
23 improper, particularly business competitors when
24 they monitor each other?

25 A (JG) Yes, I would agree that oftentimes certain

1 members of the general public based on the
2 nature potentially of their professions could be
3 in a position to offer valuable information in
4 that regard, yes.

5 Q Sure. Competitors watch each other closely and
6 try to learn about what they do and might be in
7 a position to report wrongdoing or suspicious
8 activity using background or context that the
9 government could never learn because they're not
10 in the base of watching those competitors?

11 A (JG) Correct, and I agree with you.

12 Q All right. So I take it you appreciate that
13 Canada Customs does not make all its
14 import/export data available to the public
15 although the United States does?

16 A I'm not aware of the stance that's taken in the
17 United States with respect to that data but yes,
18 it's true that the Canada Border Services Agency
19 does not make Canadian import and export data
20 that are within our holdings public.

21 Q And you appreciate that if such data were
22 available to the public, members of the public
23 could mine that information for useful
24 information that might reveal trade-based money
25 laundering or other money laundering activities?

- 1 A (JG) I suppose it's conceivable. However, I
2 would be -- I would have some concerns in that
3 regard. There can often be proprietary
4 information contained within trade data that can
5 be quite sensitive and could potentially be
6 injurious to an individual or to an entity if
7 made public. I think that there would need to
8 be before anything like that was contemplated a
9 lot of due diligence into assessing the
10 potential pros and cons from a number of
11 different prospective, including privacy.
- 12 Q And I suppose that analysis has not been done
13 within CBSA, has it?
- 14 A (JG) To my knowledge, no, but I don't have any
15 real insight to offer there. To my knowledge,
16 no, it's not to say that it hasn't happened.
- 17 Q All right. But you appreciate of course that
18 the United States does make that import/export
19 data available to the public?
- 20 A (JG) I was not aware of that.
- 21 Q All right. And a number of other countries do
22 it as well?
- 23 A (JG) Again, I'm not aware of what information is
24 made available by certain countries to the
25 general public. I don't have any knowledge of

1 databases outside of CBSA to enhance its ability
2 to detect trade-based money laundering, but it's
3 not -- it's very, very reluctant to share the
4 data with the public even though the public
5 could be of assistance to that. Do you agree
6 that there's that level of secrecy that the
7 Government of Canada, in particular the CBSA,
8 doesn't trust Canadians to conduct that
9 analysis?

10 A No, I wouldn't --

11 MS. DAVIS: Objection. Mr. Commissioner, this is not
12 evidence that of that witness. In fact he has
13 not said at all that the Government of Canada or
14 CBSA is reluctant to engage in this initiative.
15 Was his evidence was is that he was not prepared
16 to speak to what has been done to date and does
17 not have specific knowledge or views on whether
18 this should be available, so I don't think
19 that's a fair question or characterization of
20 his evidence so far.

21 THE COMMISSIONER: Yeah, I think so. I think really
22 the evidence that is before us is the evidence
23 that's before us. I don't know that asking
24 Mr. Gibbons what his characterization of it is
25 really advances the cause very much, Mr. Gratl.

1 MR. GRATL: Thank you, Mr. Commissioner. I'll move
2 on.

3 Q I have a few questions for Sergeant Sharma.
4 Now, Sergeant, the trade-based money laundering
5 is also domestic, not just cross-border?

6 A (SS) That is correct, Mr. Gratl. At least we
7 believe that to be the case.

8 Q It would seem as though the trade-based money
9 laundering efforts to date are focused on
10 cross-border activity. Is that fair to say?

11 A (SS) I would say that the majority of the trends
12 that we've seen point us towards that
13 direction, but we've also seen that it could
14 occur within our own borders as well. But
15 you're quite correct that the main standout
16 piece to date has been the influx and -- sorry,
17 I guess the ingoing and outgoing trade with our
18 partner countries.

19 Q And I take it that's primarily because you have
20 the advantage of customs declarations to work
21 with that provides a field of evidence,
22 something to look at data.

23 A (SS) Not specifically. I would say it's one
24 amongst a constellation of factors that comes
25 towards our -- when a file comes to light or

1 comes into the developmental stage it's one of
2 many factors that we look at in terms of
3 information gathering, acquisition and analysis.

4 Q All right. I'm a little bit concerned from the
5 evidence that there's a great deal of focus on
6 drugs that the implication might be drawn that
7 trade-based money laundering investigations are
8 really just an extension of the war on drugs.
9 Is that fair to say as a point of emphasis that
10 it's mainly a drug -- an appendix to the war on
11 drugs?

12 A (SS) No, sir, that would not be fair to say. I
13 thinks that's a very categorical statement and
14 we should put a caveat on that and say that I
15 think in the presentation that we did yesterday
16 in one of the slides we talked about that it's
17 not just drug trafficking. We talked about
18 human trafficking, weapons trafficking,
19 predicate offences of fraud as well. And in the
20 case study or very sanitized says study that I
21 introduced I even gave a very experiential
22 example of a mass marketing fraud insertion
23 point as well. So it's not just an extension of
24 the war on drugs per se. It is part. Drug
25 trafficking definitely makes up a component of

1 that, but there's other predicative senses and
2 other senses are part of that overall context.

3 Q Would you agree that the primary metric of
4 anti-money laundering success comes down to
5 convictions and forfeitures?

6 A (SS) I would agree that the primary focus has
7 always been that and it continues to be that.

8 Q Is that a fair proxy for success when given the
9 difficulties of measuring the extent of money
10 laundering in the first place?

11 A (SS) I would say we're caught up with the issue
12 of -- we're just beginning to explore this very
13 concept right now. So the metrics really we've
14 yet to explore how productive we can possibly
15 be. So instead of saying that we'd need to have
16 a quantitative analysis or a barometer of
17 success, I think at this point where we're at is
18 that a qualitative analysis to be able to
19 explore the intelligence probes that we have and
20 develop them, so have a spectrum of awareness
21 that extends from intelligence development to
22 potentially enforcement action, which could then
23 result in potential charges or recommendation of
24 charges, or the establishment and development of
25 an awareness piece with our law enforcement

1 agency partners. So to come back full circle I
2 would say that even though the barometer of
3 success, so to speak, has always been
4 convictions, charges, recommendations, I think
5 we need to take a step back and say are we
6 developing learning and doing something that
7 development of intelligence is also a
8 qualitative benefit that we need to also
9 articulate.

10 Q All the trade-based money laundering it's
11 essentially a crime of consent. There's nobody
12 who's not consenting to the transactions
13 underlying the offence; right?

14 A (SS) Presumably, yes. In most of the cases
15 there is a buyer and seller complicit in the
16 agreement, so yeah, that's correct.

17 Q And they operate together to keep the
18 transaction a secret and they're not -- they're
19 structuring the deals so as to avoid detection?

20 A (SS) That's correct.

21 Q So essentially the investigative field is much
22 like the investigation of drug transactions,
23 which is a crime of consent, and sex work, which
24 involves crimes of consent?

25 A (SS) If we're talking about that specific

1 aspect, the aspect of knowledge and control and
2 consent, then I would agree with you.

3 Q And generally it is fair to say that for crimes
4 of consent the investigative tools that
5 investigators must deploy have to involve ways
6 to get behind the clandestine nature of the
7 transactions, behind the trust between the
8 parties, and behind the consensual element by
9 deploying such resources as developing human
10 sources?

11 A (SS) Yes. I just want to make sure I understand
12 that question correctly. If you're asking that
13 because of the nature of this close system of
14 clandestine activity that it's imperative for
15 law enforcement to get behind that firewall, so
16 to speak, to be able to access that information
17 that is very specific and perhaps of a
18 confidential nature that requires sensitive
19 investigative techniques such as use of
20 confidential informants, yes, I would agree with
21 that.

22 Q Confidential informants are one. Undercover
23 operation are another where the police
24 essentially pretend to be one or the other of
25 the counterparties?

1 A I would go so far as to say that under the
2 umbrella of sensitive investigative techniques
3 incorporating confidential informants,
4 undercover operations and wire tap
5 authorizations, I would say that would cover off
6 that.

7 Q And so the use of those techniques specifically
8 aimed towards what look like legitimate business
9 enterprises would be necessary?

10 A (SS) Sir, I apologize. Can you clarify that. I
11 am not sure I understood the question.

12 Q Well, I'm saying that lots of the entities
13 involved in trade-based money laundering look
14 like legitimate business entities. Shipper
15 receivers, import/export companies, banks, and
16 other financial institutions?

17 A (SS) Okay.

18 Q And so it would be necessary to point those
19 investigative techniques, wire tapping,
20 development of human sources and undercover
21 operation at entities like banks so that as to
22 develop an investigative basis for gathering or
23 by gathering information?

24 A No, sir, I would have to respectfully disagree
25 with that, and I don't mean to say that as a

1 blanket premise, but I respectfully disagree
2 because each aspect of those sensitive
3 investigative techniques requires a constant
4 evaluation at least right from the immediate
5 outset as is this a technique that we would
6 employ with this entity. And so I would say it
7 would be specific to a person rather than an
8 entity, say an organization, financial
9 institution in this hypothetical example. So I
10 would put that caveat in that we're looking at
11 specific entities removed from their involvement
12 per se in whatever organization they are
13 involved in and with an evaluative aspect of is
14 this person or is this technique able to be used
15 in such an environment with such person.

16 MR. GRATL: I see my time is up, Mr. Commissioner. I
17 have a few more questions for Sergeant Sharma.

18 THE COMMISSIONER: If you're fairly quick with them,
19 go ahead, Mr. Gratl.

20 MR. GRATL:

21 Q You've spoken repeatedly of bad actors, Sergeant
22 Sharma. I wonder whether the identification of
23 bad actors or the presumption of who is a bad
24 actors unduly would influence the targets of the
25 investigation so as to focus on historic

1 organized crime syndicates like the bikers or
2 other street gangs rather than focusing on banks
3 and high volume traders who are ordinarily
4 considered to be productive members of the
5 community.

6 A (SS) Okay. I just want to make sure that I
7 understand the question correctly. Is there a
8 distinction that you're making, sir, between
9 individual entities versus corporate
10 organizations?

11 Q Yes, I sure am. I mean, there's a long
12 relationship, for example, between the RCMP and
13 biker gangs. Biker gangs have been identified
14 by the police as bad actors and no doubt some of
15 them have been investigated for money laundering
16 offences. But I wonder whether the RCMP has
17 developed techniques to identify other bad
18 actors who have flown under the radar so far
19 like banks or shipper/receiver companies or
20 large corporate concerns that have historically
21 been allies of the RCMP?

22 A (SS) I see what you're saying. Okay. I have to
23 return to a previous answer that I gave you,
24 Mr. Gratl, and that is each one of our
25 investigations is highly dependent upon

1 evaluation of an individual entity at first. We
2 are looking at a suspect and building a case and
3 building our grounds on a constant evaluation of
4 what that entity, what that suspect. I referred
5 to them in generic terms the other day,
6 yesterday, as bad actors to begin with before we
7 have the presumption of them, attributing any
8 grounds to them, reasonable and probably
9 grounds, I should say, as a suspect. So
10 throwing that distinction out first I'll say the
11 intention of the investigation is to attribute
12 potentially reasonable and probably grounds to
13 an individual who may be part of an
14 organization, of a group, but all of that is yet
15 to be determined during the course of
16 investigation. So if I'm understanding and
17 tracking correctly with your question are
18 financial institutions or regulatory agencies as
19 a whole subject of investigations, and I'm going
20 to respond with no, they are not. But it's not
21 any sort of knee-jerk response. It's always a
22 constant re-evaluation of that first premise
23 which is the focus on an individual suspect in
24 what they are doing, whether the grounds can be
25 built up and realized and an extension of those

1 grounds to potentially any co-associates.

2 MR. GRATL: I think I have the import of your answer.

3 Mr. Commissioner, those are my questions.

4 THE COMMISSIONER: Thank you, Mr. Gratl. Anything
5 arising from that, Ms. Latimer?

6 MS. LATIMER: No, thank you.

7 THE COMMISSIONER: Thank you. We will -- thank you
8 very much to members of the panel for your
9 patience and your willingness to provide us with
10 very important information which I think will
11 form a foundation for some interesting findings
12 and recommendations of the commission. So I'm
13 grateful to the three of you for your
14 assistance. You're now excused from further
15 testimony. And I gather it will take something
16 like 20 minutes to re-adjust to our next
17 witness, so we're going to stand down for
18 20 minutes until approximately 11:30 or :32 and
19 we'll resume then with our next witness.

20 MR. MCGOWAN: Yes, Mr. Commissioner. Participant
21 counsel who are in this call will have to leave
22 this Zoom call and enter through the other link.

23 THE COMMISSIONER: Yes. Thank you. All right.
24 We'll stand down.

25 THE REGISTRAR: The hearing is stood down until

1 11:33 a.m. Thank you.

2 **(WITNESSES EXCUSED)**

3 **(PROCEEDINGS ADJOURNED AT 11:14 A.M.)**

4 **(PROCEEDINGS RECONVENED AT 11:32 A.M.)**

5 THE REGISTRAR: Thank you for waiting. The hearing
6 is now resumed. Mr. Commissioner.

7 THE COMMISSIONER: Yes, thank you, Madam Registrar.
8 Yes, Mr. McGowan.

9 MR. MCGOWAN: Yes, Mr. Commissioner. The next
10 witness today is Dr. Zdanowicz. He is a
11 professor with the Florida International
12 University. Madam Registrar, if you could
13 affirm the witness or swear the witness, please.

14 **JOHN ZDANOWICZ, a**
15 **witness for the**
16 **commission, affirmed.**

17 THE REGISTRAR: Please state your full name and spell
18 your first and last name for the record.

19 THE WITNESS: John Zdanowicz. J-o-h-n
20 Z-d-a-n-o-w-i-c-z.

21 THE COMMISSIONER: Yes, Mr. McGowan.

22 **EXAMINATION BY MR. MCGOWAN:**

23 Q Yes. Dr. Zdanowicz, I'm just going to spend a
24 couple of minutes outlining some of the
25 highlights of your experience and training. You

1 hold a PhD in finance from Michigan State
2 University?

3 A Correct.

4 Q You are presently Professor Emeritus of Finance
5 at Florida International University?

6 A Correct.

7 Q And you are the President of International Trade
8 Alert?

9 A Correct.

10 Q I wonder if you could briefly explain to the
11 Commissioner what International Trade Alert is?

12 A Well, in the process of doing my research and
13 presenting some macroanalysis of trade-based
14 money laundering I had many financial
15 institutions call and ask if there's something
16 that could assist them, so making compliance
17 relative to money laundering controls, and so I
18 developed something to assist the banks that are
19 issuing letters of credit so that they could
20 check prices of the items they're financing to
21 make sure they are within the relevant range.
22 And so I set up a consulting firm called
23 International Trade Alert.

24 Q And with International Trade Alert you use the
25 data and analysis techniques that have also

1 allowed you to do some analysis to inform the
2 Commissioner; is that fair?

3 A Correct.

4 Q You've researched, written, lectured and
5 presented extensively on the topic of money
6 laundering?

7 A Yes.

8 Q And through your research and work you've
9 developed a particular interest and expertise in
10 trade-based money laundering?

11 A Correct.

12 Q You've been retained to consult with many
13 agencies and organizations on the topic of
14 trade-based money laundering?

15 A Yes.

16 Q I wonder if you could outline for the
17 Commissioner a few of those organizations who
18 have retained you to assist them.

19 A Okay. US Customs, Department of Justice,
20 Central Intelligence Agency, World Bank, Global
21 Financial Integrity, as well as financial
22 institutions that are involved in trade
23 financing.

24 Q Have you been retained by any Canadian entities
25 to present on the topic of trade-based money

1 laundering?

2 A Back in 2004 I was brought to Ottawa to do a
3 presentation to FINTRAC and other governmental
4 agencies, so I was there for two days, and
5 actually part of my presentation today we'll
6 discuss some of the data that I shared back
7 then.

8 Q Thank you. You provided to the commission a
9 brief biography setting out some of your
10 relevant experience?

11 A Yes, I did.

12 Q If we could please pull up that document. It's
13 at tab 1 of my materials.

14 Sir, is that the biography you provided to
15 us?

16 A Yes, it is.

17 MR. MCGOWAN: That could be the next exhibit,
18 Mr. Commissioner.

19 THE COMMISSIONER: Yes, very well. Madam Registrar,
20 are we at 360 now or have I lost count?

21 THE REGISTRAR: Yes, 360, Mr. Commissioner.

22 **EXHIBIT 360: Biography of John Zdanowicz**

23 THE COMMISSIONER: Thank you.

24 MR. MCGOWAN:

25 Q Now, Dr. Zdanowicz, we typically redact contact

1 information such as email addresses from
2 exhibits when they're posted on our website and
3 I just wanted to inquire whether you would like
4 your International Trade Alert email address
5 removed or would you like it to be present on
6 your bio on the internet?

7 A I would like it to be on file.

8 Q So you do not seek to have it redacted?

9 A No.

10 MR. MCGOWAN: Mr. Commissioner, I wonder if we could
11 just -- if you could direct an exception to the
12 usual rule in that regard.

13 THE COMMISSIONER: All right. I will do that.

14 MR. MCGOWAN: Thank you. That document can be taken
15 down now.

16 Q Sir, you've prepared a PowerPoint presentation
17 to present to the Commissioner today where you
18 discuss, among other things, trade-based money
19 laundering and how over- and under-invoicing can
20 be used to avoid government scrutiny?

21 A That's correct.

22 Q -- money laundering?

23 A Yes.

24 Q You also discuss in that PowerPoint presentation
25 various methodologies which have and can be

1 employed to identify suspicious trade
2 transactions?

3 A Correct.

4 Q And you've done some writing on this topic,
5 including authoring an article which was
6 published in 2009 in the review of law and
7 economics titled "Trade-Based Money Laundering
8 and Terrorist Financing"?

9 A Correct.

10 MR. MCGOWAN: If we could have that document
11 displayed momentarily, please, Madam Registrar,
12 tab 3.

13 Q And this article in addition to other things
14 discusses how fraudulent invoicing can be used
15 to move money across borders?

16 A Yes.

17 Q And it covers a lot of the ground that you will
18 also be discussing with the Commissioner today
19 on various topics related to trade-based money
20 laundering?

21 A Correct.

22 MR. MCGOWAN: If that could be the next exhibit,
23 please.

24 THE COMMISSIONER: 361.

25 THE REGISTRAR: Exhibit 361.

1 **EXHIBIT 361: Review of Law & Economics Article**
2 **by John Zdanowicz, TBML and Terrorist**
3 **Financing - 2009**

4 MR. MCGOWAN:

5 Q Sir, your presentation you plan to review some
6 statistics and in your research you have done
7 you draw heavily on American trade data?

8 A Correct.

9 Q And you've developed a technique that involves
10 examining trade data to identify anomalies which
11 might assist in detecting and measuring the flow
12 of illicit funds?

13 A That's correct.

14 Q You'll review that with the Commissioner in your
15 presentation?

16 A Yes, I will.

17 Q And in order to do this you have access to
18 American trade data?

19 A Yes, I purchased data from the --

20 Q Do you have any special status or designation
21 that allows you access that data, or can anyone
22 in the United States access American trade data?

23 A Anyone in the United States can purchase the
24 data.

25 Q And what does it cost for you to purchase access

1 to that data?

2 A \$4,800 a year.

3 Q Does that give you unlimited access to all
4 American trade data?

5 A Yes. It's sent monthly.

6 Q Okay. And I wonder if you could outline for the
7 Commissioner who retains to you provide the
8 analysis that you do with your access to the
9 American trade data?

10 A Periodically I get asked to do calculations, for
11 example, the World Bank, Global Financial
12 Integrity and I charge a fee to do the analysis,
13 and financial institutions have used my data
14 analysis. So basically it's available to anyone
15 who wants to have me calculate some of the
16 analysis.

17 Q The banks in part wanting access to this
18 analysis so they can conduct a risk assessment
19 with respect to whether or not they wish to
20 extend financing in respect of a particular
21 trade transaction?

22 A Correct. I will be covering something later
23 called the international price profiling system
24 which a financial institution uses to check the
25 price of an item that they're going to be

1 financing.

2 Q Okay. You indicated that you get sent the data
3 on a monthly basis. Do you also have the
4 ability to essentially check trade data in
5 realtime?

6 A Well, the data that we receive is about two
7 months' lag between the time the government, US
8 government, gets it and we get it and we get it.
9 In fact we just received the Canadian
10 October data, so that's the lag. Right now I
11 could be analyzing British Columbia
12 October import/export data and so there's that
13 lag, but once -- that data is being used to
14 calculate statistical parameters which then can
15 be analyzed in realtime.

16 MR. MCGOWAN: Thank you. Madam Registrar, we no
17 longer need that article displayed. Did we mark
18 that as an exhibit?

19 THE COMMISSIONER: Yes, we did.

20 MR. MCGOWAN: Thank you.

21 THE COMMISSIONER: I'm sorry. Perhaps -- yes, we
22 did.

23 THE REGISTRAR: Yes, 361.

24 THE COMMISSIONER: 361. I beg your pardon.

25 MR. MCGOWAN: Thank you.

1 Q Sir, as part of your work for the commission you
2 were given access to Canadian trade data to
3 analyze in the way you do with the American
4 trade data; is that correct?

5 A That's correct. And at this point I want to
6 thank Statistics Canada. They did a great job
7 in sharing the data with us, very timely and
8 very efficiently.

9 Q I'm glad to hear that. I wonder if you could
10 outline for the Commissioner what data you were
11 provide and for what years from Canada.

12 A All of the detailed export and import data for
13 the years 2015 to 2019 and we have been getting
14 monthly updates. Like I said we're up to
15 October now and at the end of the year we could
16 do the same analysis for 2020. Actually we
17 could do the data analysis by month.

18 Q And you actually have done some data analysis
19 with the Canadian data you've been given access
20 to and generated some reports from that?

21 A I have. From that data I have produced what I
22 call macro reports which show the amount of
23 money being moved potentially in and out of
24 Canada as well as each of the provinces and then
25 what I call micro reports and I focused on

1 British Columbia, actually came up with quite a
2 few transactions that looked suspicious that if
3 you were a bank, you would be concerned about
4 financing, but more importantly if you were
5 regulatory or law enforcement it's a red flag
6 that this is something they ought to look at.

7 Q And you're going to walk the Commissioner
8 through some of suspicious trade transactions
9 you identified?

10 A Yes, I will.

11 Q You've created for the commission five what you
12 call macro reports and four micro reports?

13 A Correct.

14 MR. MCGOWAN: If we could just -- Madam Registrar,
15 you have the five macro reports, the 2015
16 through 2019 Canadian international trade
17 pricing analyses?

18 THE REGISTRAR: Yes.

19 MR. MCGOWAN: Mr. Commissioner, the witness will
20 refer you to excerpts from those, but I'm going
21 to asking those five reports be marked as the
22 next five exhibits. I don't think we need to
23 display them.

24 THE COMMISSIONER: All right. Do you want them
25 marked collectively or sequentially?

1 MR. MCGOWAN: Sequentially please.

2 THE COMMISSIONER: All right. So they'll be 362
3 through 367. Am I correct?

4 THE REGISTRAR: 362 to 366.

5 THE COMMISSIONER: My mathematics was never my strong
6 suit. Thank you.

7 **EXHIBIT 362: Canada International Trade Pricing**
8 **Analysis 2015**

9 **EXHIBIT 363: Canada International Trade Pricing**
10 **Analysis 2016**

11 **EXHIBIT 364: Canada International Trade Pricing**
12 **Analysis 2017**

13 **EXHIBIT 365: Canada International Trade Pricing**
14 **Analysis 2018**

15 **EXHIBIT 366: Canada International Trade Pricing**
16 **Analysis 2019**

17 MR. MCGOWAN:

18 Q And if you could just briefly explain for the
19 Commissioner what the micro reports are?

20 A Well, these are Excel spreadsheets, and
21 basically based on a filter system that we have
22 I went through every transaction in 2019, every
23 import transaction in 2019 as well as every
24 export transaction and pulled out all of those
25 who violated the statistical filters. And so

1 that includes the product, its description, the
2 province, the quantity, units of measure, the
3 total value of that shipment, the quantity.
4 From that I determined the price per unit,
5 compare it to a statistical filter and if it
6 exceeds it, the difference is multiplied by the
7 quantity. That gives the total potential amount
8 of money being moved in or out of
9 British Columbia. And I'll be going through
10 these in detail later in the report.

11 Q Yes. So for 2019 you created spreadsheets
12 detailing overpriced and underpriced exports and
13 overpriced and underpriced imports?

14 A Correct.

15 Q Which comprise four micro reports?

16 A Right, and within those 10,000 in each report.

17 MR. MCGOWAN: Mr. Commissioner, if those four could
18 be sequentially the next four exhibits, please.
19 Those are the 2019 over or underpriced exports
20 and imports.

21 THE COMMISSIONER: Very well. That will be
22 exhibit 367.

23 THE REGISTRAR: 367. Mr. McGowan, I just want to
24 make it clear because there are four reports,
25 it's "Money in - Exports Over,"

1 "Money in - Imports Under."

2 MR. MCGOWAN: If you could identify them in order on
3 the record and assign an exhibit number, please.

4 THE REGISTRAR: Certainly. So 367 will be Money in -
5 Exports Over 2019."

6 **EXHIBIT 367: Excel Spreadsheet, BC Money In -**
7 **Exports Over 2019**

8 THE REGISTRAR: And 368 is "Money in - Imports Under
9 2019."

10 **EXHIBIT 368: Excel Spreadsheet, BC Money In -**
11 **Imports Under 2019**

12 THE REGISTRAR: And 369 is "Money Out - Imports Over
13 2019."

14 **EXHIBIT 369: Excel Spreadsheet, BC Money Out -**
15 **Imports Over 2019**

16 THE REGISTRAR: And 370 is "Money Out - Exports Under
17 2019."

18 **EXHIBIT 370: Excel Spreadsheet, BC Money Out -**
19 **Exports Under 2019**

20 MR. MCGOWAN: Thank you.

21 Q Sir, in addition to preparing a PowerPoint
22 presentation you prepared a brief report setting
23 out in summary fashion some of the information
24 you'll provide to the Commissioner during your
25 presentation?

1 A Correct.

2 MR. MCGOWAN: If could have that document displayed,
3 please, Madam Registrar, tab 2. Tab 2 is the
4 report titled "Trade-Based Money Laundering
5 (TBML) in Canada and British Columbia, 2015 -
6 2019."

7 THE REGISTRAR: Sorry, did you say you want to mark
8 it as an exhibit?

9 MR. MCGOWAN: No, what I'd like -- this is not the
10 document but this is PowerPoint. What I'm
11 looking for is a report that's at tab 2 of the
12 materials.

13 THE REGISTRAR: Oh, I'm sorry, yes.

14 MR. MCGOWAN: No problem. It's a four- or
15 five-page report titled "Trade-Based Money
16 Laundering (TBML) in Canada and
17 British Columbia, 2015 - 2019." If that could
18 be displayed, please.

19 Q Sir, is this the report you prepared for the
20 commission?

21 A Yes, I did.

22 MR. MCGOWAN: If that could be the next exhibit,
23 please.

24 THE COMMISSIONER: 371.

25 THE REGISTRAR: 371.

1 **EXHIBIT 371: TBML in Canada and BC, 2015-2019 -**
2 **undated**

3 MR. MCGOWAN:

4 Q And, sir, in addition to the report you've
5 prepared a quite lengthy and comprehensive
6 PowerPoint presentation which you plan to walk
7 the Commissioner through summarizing the
8 analysis you've done and the work you've done in
9 this area?

10 A Correct.

11 MR. MCGOWAN: And if that PowerPoint presentation
12 could now be displayed. That report can come
13 down. Mr. Commissioner, if we could please
14 enter the PowerPoint presentation as the next
15 exhibit.

16 THE COMMISSIONER: 372.

17 THE REGISTRAR: 372.

18 **EXHIBIT 372: Slide Presentation by John**
19 **Zdanowicz, TBML - undated**

20 MR. MCGOWAN:

21 Q Sir, do you have -- I understand that you have
22 control of the PowerPoint presentation? Has
23 that been arranged?

24 A I'm getting it right now.

25 THE REGISTRAR: Professor, now you have control.

1 THE WITNESS: Hold on one sec. It's not allowing me
2 to change the slides. Okay, I'm not able to
3 change the slides.

4 THE REGISTRAR: When you click your mouse over the
5 slide and then you can right click it again.

6 THE WITNESS: Okay. I got it now.

7 MR. MCGOWAN:

8 Q Okay. Well, then, sir, I'm going to turn off my
9 microphone and invite you to at your own pace
10 walk the Commissioner through the presentation
11 you've prepared, please.

12 A Okay. Great. Well, Recently trade-based money
13 laundering has gotten an increased focus. In
14 the United States there's something called the
15 Federal Financial Institution Examination Manual
16 which is being used now to assist banks in doing
17 their compliance analysis. ICE is established
18 trade transparency units. The Federal Financial
19 Action Task Force based out of Paris has written
20 a few reports. There's the IFSA and BAFT
21 guidelines. Wolfsberg Group. So it's becoming
22 more and more in focus as a topic area. And
23 basically trade-based money laundering, this is
24 the Financial Action Take Force definition, a
25 process of disguising the proceeds of crime and

1 moving value through the use of trade that makes
2 them look legitimate. And basically any country
3 this can be, and it's not just the United States
4 or Canada, if you want to move money out of a
5 country undetected, you undervalue your exports
6 or you overvalue your imports. If you want to
7 move money into a country, you do the opposite
8 and you overvalue your exports and undervalue
9 your imports.

10 Let me give you an example. If I am a drug
11 dealer here in Miami and I have \$1 million in
12 cash that I want to move to a foreign country,
13 let's say Colombia, I can go into downtown Miami
14 in an afternoon and buy 200 gold watches for
15 5,000 each. So I've converted my million
16 dollars in cash into a million dollars of a
17 commodity, gold watches. I then export them to
18 my colluding partner in the foreign country, but
19 I invoice him \$5 per watch. Therefore I export
20 the gold watches. He actually pays me \$1,000
21 for those, which is just a transaction cost.
22 Once the watches are in Colombia they are sold
23 in the open market for 5,000 each. Actually a
24 few years back in Miami there were drug dealers
25 buying Corvettes for \$40,000 cash exporting them

1 to Latin American countries and they were
2 invoiced at \$500 an automobile. And when they
3 got into the Latin American countries they were
4 sold for \$50,000. So not only do they launder
5 \$40,000 they made a \$10,000 profit doing it.

6 So undervaluing exports is a way of doing
7 it. Also it's a way of reducing -- we think of
8 money laundering, but there's also income tax
9 evasion. Undervaluing exports is a way,
10 especially within multinational firms you can
11 shift your taxable income offshore, and so in
12 this example basically if a company produced a
13 product that was worth \$5,000 but sold it to its
14 foreign subsidiary for \$5, therefore it's going
15 to decrease the domestic taxable income by
16 \$4,995 for that one transaction. And the same
17 goes on the import side. Okay. It's a way that
18 firms shift their taxable income offshore to
19 other jurisdictions with lower tax rates. Okay.

20 Now, over-invoiced imports. Again the
21 criminal and the US or Canada has \$1 million.
22 Okay. Their foreign counterparts buys 10,000
23 razor blades for 10 cents each, spends \$1,000
24 and then exports those 10,000 razor blades to a
25 domestic criminal at \$100 a blade, and that

1 effect is the domestic money launderer or drug
2 dealer imports 10,000 razor blades but pays the
3 foreign counterpart \$1 million. And so this
4 moves another million dollars. In fact it was
5 interesting when I made this presentation very
6 early on to the US customs office in Miami,
7 there was an investigator in the back of the
8 room who yelled "now we know why." And they
9 asked what he was talking about. He said, there
10 is a warehouse on the Miami River that's full of
11 razor blades that are just rusting away, nobody
12 is doing anything with them and the roof in the
13 warehouse is leaking and they're all rusting and
14 we're trying to figure out why anybody would
15 import razor blades and just let them sit there.
16 Well, it's probably part of a money laundering
17 scam.

18 Now, the impact of trade price manipulation
19 is not just money laundering and I don't know
20 what the motivation is for doing these
21 transactions, but there are many potential
22 motivations. Obviously the one we're interested
23 the most is money laundering from illegal
24 activities. But it could also be to fund
25 terrorism. Income tax avoidance and income tax

1 evasion. Keeping in mind all income tax
2 avoidance and evasion is not necessarily money
3 laundering. Because that's not a specified
4 unlawful activity. However all money laundering
5 activities are in fact tax evasion. Okay.

6 Another is capital flight. Moving money to
7 safer jurisdictions. Avoid export surcharges in
8 countries that have export surcharges.
9 Concealing illegal commissions. Something
10 called *Foreign Corrupt Practices Act* here in the
11 US which makes it illegal to bribe a foreign
12 government agency or agent in order to
13 accomplish some activity. Well, you don't have
14 to send them money. All you have to do is
15 export a Mercedes Benz to them for \$500. So
16 it's another way of concealing illegal
17 commissions. And over-invoiced exports,
18 increase export subsidies, in countries that
19 have value added tax, you get a tax rebate,
20 okay, based on the value of your exports, so
21 they can increase their tax subsidies. I'll
22 actually be showing an example of that later on
23 in the presentation.

24 Now, over-invoiced imports, you have money
25 laundering, terrorist financing, income tax

1 avoidance or evasion, capital flight, and those
2 countries that have price controls it's a way of
3 justifying higher prices. Again concealing
4 illegal commissions. And under-invoiced imports
5 avoid and reduce import duties. This is pretty
6 important in countries in the Caribbean and in
7 Africa who don't have a good income tax system.
8 They collect their revenue through tariffs and
9 one way to avoid paying tariffs is to undervalue
10 the item, and dumping is another.

11 Now, we're sort of going to be focusing on
12 my analysis over time. The very first work that
13 was done was basically the year 1991 where we
14 compared average country prices to average world
15 prices. And, for example, let's take a look a
16 look at cooking stoves. Okay. Exported to
17 Colombia for \$76 each when the average world
18 price was \$425.65. Okay. This was published in
19 Money Laundering Alert in January of '92. And
20 this was sort of the first discussion at the
21 micro level of trade-based money laundering.
22 The other interesting transaction was the export
23 of erythromycin to Iran for 10 cents a gram when
24 the average world price was \$1.20, and when that
25 was discovered again Iran was not the most

1 favoured nation here in the United States and
2 the question became why would anybody sell
3 erythromycin to Iran. Well, I'll be mentioning
4 this through the presentation, but when I do
5 this we get many reporters call me wanting to
6 follow up and come to find out in 1990 Iran
7 brokered the release of 18 hostages from Lebanon
8 and the conjecture was that Iran was paid
9 \$1 million per hostage. Well, when the reporter
10 called I dug back into the analysis and found
11 out that this amount of erythromycin was shipped
12 out of Chicago O'Hare Airport and the amount,
13 the difference between the 10 cents and the
14 \$1.20 times the number of grams came out to
15 basically \$1 million per hostage. This is where
16 Terry Anderson was held hostage and released.
17 The reporter followed up on it and was told that
18 it was a clerical error in the data, and so
19 that's one of the outgrowths of this
20 presentation. Okay.

21 US imports at high average prices, again
22 moving money out of the country. Well, you can
23 see the two major razor blade producing
24 countries of Colombia and Panama were importing
25 razor blades for \$34 and \$29 each. Emeralds

1 from Panama for \$974 a carat when the average
2 world price was \$43.63. Now, exports at high
3 prices it's moving money in. Erythromycin at
4 \$79 a gram when the average world price was
5 \$1.20. And then imports at low average prices,
6 again moving money into the country. The one
7 that's interesting is cut emeralds from Brazil
8 at \$5.29 a carat when the average world price
9 was \$43.63 and digging into that what we
10 discovered -- we actually did a paper on that,
11 Brazil -- is that during the period of time that
12 this transaction occurred the average inflation
13 rate in Brazil was 70 percent per month. And so
14 this transaction reflects that individuals
15 removing their money out of Brazil to the United
16 States in order to avoid the hyperinflation that
17 they were facing in Brazil. Again in 1990
18 Brazil devalued this currency and again
19 inflation rate took off.

20 So now at one point people said well, how
21 come you were just looking at Latin American
22 countries? And, well, we were from Miami and
23 this is where most of our trade was so we
24 decided to look elsewhere, and we found that
25 someone imported untrimmed pillowcases from

1 France for \$909 each. Okay. Sand through Spain
2 importing them at close to \$2,000 a ton. Raw
3 cane sugar from the UK imported at \$1,400 a
4 kilo. Just as a side note, this was presented
5 at a money laundering conference and a year
6 later when I attended that conference, and I
7 don't know who the individual was, but a
8 gentleman who said he was with the Royal
9 Canadian Mounted Police told me that they made a
10 bust in Toronto and it was involved with
11 importing raw cane sugar at \$1,400 a kilo. The
12 slip joint pliers imported from the UK for
13 489.75. In the United States some people joke
14 that this was a Pentagon purchase.

15 And again exports at low prices moving money
16 out. Uranium going to Spain at 15.50 a kilo.
17 Machine guns going to France 364 when the
18 average world price was 2,000. And one of the
19 criticisms of that analysis was people said
20 look, you just can't compare a country's import
21 or export price to the world because there's a
22 difference, and for example, they would say, the
23 importation of dresses from Haiti are different
24 than the importation of dresses from France and
25 I agree. There's different heterogeneity in

1 quality of various products and so that made me
2 consider moving my analysis over to looking at
3 not average world prices but historical average
4 country prices. And did some analysis and I
5 looked at 10 percent, 20 percent, 30 percent,
6 40 percent, 50 percent and I stopped there and I
7 detected all import prices that were greater
8 than 150 percent of the average country import
9 price, not the average world, and export prices
10 that were below 50 percent of the average
11 country export price. Okay. And began
12 calculating and adding up every single
13 transaction that met these filters and came up
14 with the conclusion that the US in '92 moved
15 \$84 billion out of the US due to this abnormal
16 pricing. And these were the numbers for '93,
17 '94 and '95.

18 An interesting thing that happened when I
19 was doing this, received a call from a reporter
20 from the *Boston Globe* and he said John, if you
21 give me an exclusive, I'll put you on the front
22 page of the *Boston Globe*. So he flew down with
23 his photographer and I was working with a
24 colleague back then and spent the morning
25 talking about what did research look like. And

1 we got to the afternoon and he said well, I've
2 got to get ready to fly back to Boston, but I
3 wanted to get it on in a phone conversation, and
4 so he said okay. So he called a gentleman by
5 the name of Dale Jorgenson. Dale Jorgenson was
6 considered to be the number 1 international
7 economics academic in the world, and I figured
8 well, there goes the story because we economists
9 are known to be very critical of other people's
10 research. But when we got on the phone the
11 reporter asked Professor Jorgenson what he
12 thought of the research and his comment was
13 because this is such a huge database that it was
14 a momentous piece of work comparable in
15 computing terms to the voyage of Magellan. That
16 was on the front page of the *Boston Globe*.
17 Well, after that we got calls from
18 Pricewaterhouse and other agencies, lawyers
19 because of that quote. Okay.

20 Now, here's some examples, and this is how
21 far I can take the data down. This is all based
22 on US data. Later on in this presentation I'll
23 be showing you Canadian data, but basically I
24 found using these filters new bulldozers
25 exported to Venezuela out of Norfolk, Virginia,

1 and I can do this by customs district and of
2 course in the Canadian database I can do it by
3 province. During May bulldozers were exported
4 for \$387.73 each. Prefab buildings, Haiti,
5 \$2.12. New tires to Russia for \$3.97. So this
6 was using those new filters. Overvalued US
7 imports. Okay.

8 The one here that stands out that people are
9 always going to chuckle at is somebody in the
10 United States imported used clothing from Haiti
11 into Los Angeles during March and paid \$260 a
12 kilo for used Haitian clothing. Well, that
13 makes no sense whatsoever. Normally used
14 clothing is exported out of the US into Haiti.
15 And so but this was in the database.

16 And emeralds came from Russia for close to
17 \$18,000 a carat. And overvalued exports, spark
18 plugs exported to Venezuela for 313 unit, that's
19 moving money into the US. Dot matrix printers
20 for 36,000 each. Makes no sense. Okay.

21 Undervalued US imports, ceramic sinks imported
22 from Venezuela in June for \$1.13 each. Diamonds
23 imported from Russia into New York, in April, 78
24 cents a carat.

25 Now, again that 50 percent filter was

1 arbitrary. Actually I did some analysis and
2 looked at 10, 20, 30, 40, 50, 60, 70, and so I
3 stopped at 50 and so the valid criticism was
4 that the filter was an arbitrary decision. But
5 then what happened in 1994, the United States
6 Internal Revenue Service came up with an arm's
7 length definition of international pricing.
8 Now, they were focusing on transfer pricing
9 which basically is Paris trading with their
10 subsidiaries in order to ship taxable income.
11 And the internal revenue service defined the
12 interquartile range as the arm's length range of
13 pricing. Anything outside of that range is
14 considered suspicious. Okay. And so that gave
15 me a research methodology based on government
16 data and a government-defined filtering system.
17 So that took away some of the criticism related
18 to an arbitrary filter decision and using that
19 filter going through and calculating the upper
20 and lower quartile prices and taking anything
21 above or below and filtering them out, the
22 estimates of money moved out of the US from a
23 taxing perspective, these are untaxed dollars,
24 okay, is 104 billion up to 156 billion.

25 And it's interesting Senator Byron Dorgan of

1 North Dakota had been falling our research for
2 quite a few years. Actually had us make a
3 presentation to his staff in Washington. And
4 when he became the head of the treasury
5 appropriations committee, his office called --
6 because we always said we wanted to do a data
7 analysis with the actual data and so that result
8 was we put together a proposal, sent it to
9 Washington, it got approved by the treasury
10 appropriations committee. Then it was approved
11 by the US Senate and George Bush signed it into
12 law and we received a \$2 million research grant
13 to study abnormal trade pricing as it relates to
14 tax evasion but also as it relates to potential
15 money laundering. The problem with doing these
16 studies are we never know the final results of
17 our analysis because it's all confidential. I
18 was not given the names of the importers or the
19 exporters. Before we got the data, the names of
20 the importers and exporters were camouflaged
21 with a different set of numbers so we had an
22 importer ID number but not the name of the
23 importer or the exporter in the analysis.

24 And one of the things that I had always
25 believed is that if you clamp down, law

1 enforcement regulatory agencies clamp down on
2 one form of money laundering, people shift their
3 money into other venues to do the same thing.
4 And so there was an article that was co-authored
5 with two other colleagues and it basically was
6 impact of Switzerland's money laundering law on
7 capital flows through abnormal pricing in
8 international trade. This was in the *Journal of*
9 *Applied Financial Economics*. And basically what
10 it was is the law was approved in 1998. It was
11 called *The Federal Act on the Prevention of*
12 *Money Laundering in the Financial Sector - Money*
13 *Laundering Act*. And so as an economist,
14 especially a financial economist, we look at
15 what we call event studies. We said okay,
16 there's a period of time before the law and a
17 period of time after the law; let's take a look
18 at what happens to abnormal pricing between
19 Switzerland and the US during those two big
20 periods. So we did an analysis, and those of
21 you that have statistical background, we did
22 multiple regression analysis, taking into
23 account other things like interest rate
24 differentials, exchange rate differentials,
25 consumer price index differentials, producer

1 price index, and what we found was the other
2 variables had no impact on the money moved from
3 Switzerland to the US. The only statistically
4 significant variable that came out of this
5 analysis was the new law, which kind of
6 confirmed my hypothesis all along is I use the
7 analogy it's like squeezing a balloon. You
8 squeeze it at one end, it pops out at the other
9 end. When they started clamping down on
10 financial institutions the people who were doing
11 the money laundering shifted their technique
12 from the banking system into trade. These are
13 the average monthly outflows before and after.
14 Went from before the law 252 million, after the
15 law, 628 million. Percent increased,
16 149 percent.

17 And basically the conclusion was that as you
18 increase regulation in the financial sector
19 money laundering moves to international trade.
20 And I would argue that this happens if you start
21 really regulated casinos, real estate; they're
22 going to move to the international trade. And I
23 used the term it's time to close the back door
24 and governmental institutions should monitor
25 international trade pricing. The front door is

1 the banking system. And most countries have
2 done a very good job at regulating the financial
3 sector on filing currency transaction reports,
4 SARs, but very little work is being done on
5 international trade.

6 Okay. Now in terms of more of a macro
7 analysis, these are not current data numbers but
8 are numbers from I think 2014, but this is the
9 type of analysis I did with the Canadian trade
10 database; okay? For example, during I think it
11 was 2014 the money moved out of the US to the
12 world was 216 billion. The money moved into the
13 US from the world was 323 billion. It's
14 interesting. More money moves into the US than
15 moves out of the US through abnormal pricing and
16 trade. And in the analysis if I rank ordered it
17 by dollar value, money moved out, China comes up
18 on top. Canada is number 2. 25 billion is
19 moved out of the US to Canada compared to
20 26 billion from China. Now, this is by dollar
21 amounts. However, this is not a good way of
22 detecting potential money laundering because
23 obviously China and Canada and Japan and Germany
24 and Mexico, these are our major trading
25 partners. You would expect to see more money

1 being moved out. So what I've done is taken the
2 amount of money moved out of the US and divided
3 it by the total trade between the US and the
4 country and come up with what I call the share
5 of trade. An analogy is when we look at
6 jurisdictions and calculate murder rates, it's
7 not so much the absolute amount of murder, it's
8 the murder per capita that we tend to focus on.
9 So I reranked everything and came up with if I
10 look at money moved out of the US as a
11 percentage of trade, what pops out on top is
12 Bangladesh. Number 2 is Ireland. Now, there's
13 an explanation for that. The tax rate,
14 corporate tax rate in Ireland is 12 and a
15 half percent. Many corporations are moving
16 their taxable income out of their home country
17 at higher tax rate into Ireland. Aruba, which
18 is then known as a money laundering haven.
19 Croatia, Afghanistan. Okay. And that's by
20 percentage of trade.

21 Now, money moved by US customs district, you
22 think of the customs district, Los Angeles, New
23 York, the big customs districts by dollar
24 amount. Well, again, you would expect more out
25 of Los Angeles because it is a large customs

1 district. Incidentally I've done the same
2 analysis for Canada data by province, and I'll
3 be showing that later. But if I rank this by
4 percentage of trade look what comes up on top:
5 Washington, DC; Norfolk, Virginia; Wilmington,
6 North Carolina. These are not considered to be
7 high drug traffic areas because the money
8 launderers know that everyone is looking at LA
9 and New York and San Francisco and Miami, but
10 not too many people are looking at Washington,
11 DC. Well, that's the first customs district I
12 would go after. Okay. Then money moved into
13 the country. China, Canada number 2, dollar
14 value. If I look at it by money moved in as a
15 percentage of trade, Slovakia, the Czech
16 Republic, the Philippines, Liechtenstein,
17 Bulgaria. These are the top countries of moving
18 money into the US.

19 Money moved in by customs district, again,
20 New York City, Chicago, LA. These are the major
21 customs districts for trade and you find the
22 largest amount, but if you do it as a percentage
23 of trade, St. Louis; Wilmington, North Carolina;
24 Milwaukee, Wisconsin; Cleveland, Ohio. These
25 are the customs districts that law enforcement

1 ought to be focusing on. Okay.

2 Now, I'm doing some research now on the
3 total impact of money moved in and out of the US
4 and there is something called FATCA, the *Foreign*
5 *Account Tax Compliance Act*, which is basically a
6 requirement that US financial institutions
7 require foreign financial institutions to share
8 their data to determine what US citizens have
9 money in foreign banks, and it's a reciprocal
10 arrangement.

11 So I was looking at this and thinking well,
12 what if it really worked, what if this
13 regulation really worked and none of this
14 abnormal pricing were to go on? What is the
15 unintended consequence? Well, the total money
16 moved out of the US was \$3 trillion over these
17 15 years. But at the same time the total money
18 moved into the US during these 15 years was 4.5,
19 4.6 trillion. So if the law worked an
20 unintended consequence would be that the US
21 treasury would lose \$1.5 trillion in taxable
22 income. That's just an unintended consequence
23 because more money comes into the US than leaves
24 the US. Okay. The other thing that I got to
25 doing in my research was abnormal import

1 weights. And this came because of a movie.
2 There was a movie called *The Sum of All Fears*.
3 Ben Affleck was Jack Ryan. Morgan Freeman was
4 the director of CIA in that movie. And the
5 theme of the movie was a group of former Nazi
6 individuals were trying to start a war between
7 the US and Russia, so they ended up putting an
8 atomic bomb in a cigarette vending machine and
9 putting it into the airport in Baltimore. They
10 blew up and killed a lot of Americans. Okay.
11 As I'm watching the movie I notice a forklift
12 picking up a wooden container and putting it
13 into the back of a pickup truck and that pickup
14 truck went to the football field and the vending
15 machine was put in there, and as I'm driving
16 home from the movie, I said wait a second, that
17 vending machine weighed a lot more than a
18 regular vending machine because they had an
19 atomic bomb in it.

20 So the next day I got up and instead of
21 focusing on price, I looked at abnormal weight
22 and here is what I had discovered. Someone
23 imported coffee in October into San Francisco
24 weighing 1.26 kilograms per kilogram. There was
25 more than coffee in those bags. Someone

1 imported briefcases from Malaysia into
2 San Francisco weighing 98 kilos per briefcase.
3 There was something in those briefcases. Okay.
4 Or there may not have been briefcases. Also a
5 few years later I looked at the data, towels
6 imported from Pakistan into Charleston weighing
7 2 kilos per towel. Travel bags from Germany
8 into New Orleans weighing 56 kilos per travel
9 bag. And this was published in money laundering
10 alert.

11 The main thing is one of the questions that
12 I always get asked is how do you know what's on
13 the paper is what is in the container or what is
14 being shipped. Well, the way to find out is to
15 weigh it. All of those documents that the
16 government collects has the weight. That's
17 where I got it from. And so just as we looked
18 at abnormal pricing, okay, government law
19 enforcement officials should look at abnormal
20 weight as a way of detecting especially the
21 importations of weapons of mass destruction.
22 What does it weigh? And so this is another
23 tool. So it's not just price that should be
24 analyzed, weight should be analyzed. I haven't
25 taken this any farther in terms of coming up

1 Internal Revenue Service \$93 million in taxes
2 and penalties and customs, \$4 million through
3 customs fraud, and there was no specified
4 unlawful activity that anybody could find. This
5 was basically a tax scam. So there was no money
6 laundering charge, but there was tax evasion.
7 Let me show you some of the analysis.

8 Here's one of the things we analyzed. In
9 1990 Sunrider imported "other mushrooms" from
10 Taiwan. There's the harmonized code number, and
11 this was a listing of the data that we were
12 given and we rank ordered it from minimum price,
13 lower quartile price, median price, upper
14 quartile price and maximum price. This was the
15 set of data. In fact, this is what we did with
16 the Canadian data. For every product they
17 imported and exported, we did this kind of
18 analysis. And the key variable here was that
19 upper quartile price of \$35.26. Anything above
20 that is considered suspicious according to
21 482 transport pricing regulation. So the upper
22 quartile main year to focus on is 1990. '89 and
23 '91 had some quirks in it, so let's focus on
24 \$35.26. This is a graph of the transactions
25 that were done by Sunrider Corporation for the

1 other mushrooms imported from China. The green
2 and the red lines show the upper quartile price
3 of around \$35 per kilo. The dots up at the top
4 of the page show the transactions for Chen
5 Sunrider Corporation. Extremely high compared
6 to the upper quartile price. So we did that for
7 every single product that they imported and they
8 all fell into this type of an analysis. And
9 this is a side note on this, a lot of consulting
10 firms are trying to assist financial
11 institutions by saying that you can look at a
12 price and you compare it to the historical
13 import price or export price of that item.
14 Well, that doesn't really work because for
15 example, in this case if there was a new
16 transaction or an import of mushrooms from
17 Taiwan had a price of \$100, if you look back at
18 the historical import prices, they would say
19 well, this is no different than the past. Well,
20 that's not going to indicate potential money
21 launderers. You've got to compare it to another
22 benchmark which is the total analysis of all
23 transactions, not just a financial institution's
24 or a company's historical transactions.

25 And in looking -- these charts were prepared

1 because I was prepared to go to Los Angeles and
2 testify and needed to explain to a jury what we
3 had discovered. So I couldn't use a lot of
4 statistical jargon. But look at period 1,
5 95 percent of the transactions were above the
6 country upper quartile in terms of transactions
7 in dollar amounts. Okay. So when I compared it
8 to world upper quartiles, 97, 96 percent. It
9 was these graphs that I think made their
10 attorneys say look, the numbers are the numbers;
11 take a plea.

12 Another case I was brought in -- I never
13 testified on this -- I was brought in as a
14 consultant, is on Eastern District of Virginia
15 who was over invoicing medical instruments from
16 Pakistan. The company was Falcon Instruments
17 and they were convicted of false statements to
18 customs and income tax evasion. Basically it
19 was a hawala scam where people in the US wanted
20 to move money to Pakistan and they did this with
21 an exporter of surgical instruments in Pakistan
22 who wanted to maximize his value added tax
23 rebate. And the US importer wanted to decrease
24 his taxable income, and basically the money that
25 came into the US went to the US importer and

1 anything that was overvalued was covered by the
2 money coming in. And this chart, it was
3 interesting. Notice that this is from US
4 Immigration and Customs.

5 I was on a panel of a financial institution
6 on trade-based money laundering and he was on
7 the same panel with me. He was a customs
8 official, and he put up this slide, he looked
9 down the table at the panel, and he said John,
10 this is the case you worked on. So I asked him
11 after if I could use it in my presentation and
12 so he got permission and ICE gave me permission
13 to use it. And it shows what was happening;
14 okay? These instruments were being overvalued.
15 So in the United States overvalued imports meant
16 the cost of goods sold for that importer was
17 extremely high, which meant his taxable income
18 was low and he was paying less taxes. Okay.
19 And in terms of the Pakistani government, they
20 were subsidizing the exporter by giving him
21 value added tax rebates. So it was a situation
22 here that basically the US importer and the
23 Pakistani exporter were exploiting the system
24 and getting tax advantages.

25 Now, I make presentations like this quite a

1 bit and then as I mentioned earlier, after I
2 made some, I did a presentation for the Florida
3 International Bankers Association that was a
4 webinar, and after that bankers were calling me
5 and saying well, that's nice John, you talked
6 about macro numbers; can you help us figure out
7 how to not finance money laundering
8 transactions? So I call that detecting, risk
9 mitigation. Let's see, I'm having problems now.
10 This is not changing.

11 THE REGISTRAR: Maybe, Professor, move your mouse
12 over the slide again and click it.

13 THE WITNESS: I did that. Okay. It's coming. Okay.

14 So basically to help financial institutions
15 and equally as important government regulatory
16 agencies and law enforcement, how do you detect
17 trade-based money laundering doing statistical
18 analysis in the trade database? Well, in 2004 I
19 believe it was, and it's been revised in 2014,
20 in the United States there's the Federal
21 Financial Institution Examination Council. What
22 was happening in the US is there were different
23 regulatory agencies: the Federal Reserve, the
24 FDIC, National Credit Union, Comptroller of the
25 Currency, Office of Thrift Supervision. They

1 all had different requirements for financial
2 institutions. Many times they were
3 contradictory. So congress said get together as
4 a group and form the Federal Financial
5 Institutions Examination Council and come up
6 with one standardized set of rules for financial
7 institutions. And they came up with 11 red
8 flags, okay, which is know your customer and
9 more importantly the transactions. Analyzing
10 the trade database can't help with these five.
11 Products inconsistent with the customers
12 business. You know, if a company is dealing in
13 automobile tires and all of a sudden you see him
14 importing gold, well, that's inconsistent.
15 Transaction structure unnecessarily complex.
16 Payment of proceeds to unrelated third parties.
17 I had done a case here in Florida where it was a
18 really a Ponzi scheme and I had done the
19 analysis and basically what it was there was a
20 firm in Miami importing a product from Taiwan
21 but the payments for the product was going to
22 Liechtenstein. Locations and descriptions
23 inconsistent with letters of credit.

24 THE COMMISSIONER: Professor Zdanowicz, I'm just
25 going to interrupt you for a moment. I'm sorry.

1 I gather that there's some difficulty with the
2 sound, and I'm going to stand down very briefly
3 to enable that do be addressed.

4 THE WITNESS: Okay.

5 THE COMMISSIONER: Let's take five minutes.

6 MR. MCGOWAN: Professor, if you could just stay and
7 the hearing staff will coordinate with you to
8 get your sound fixed.

9 THE WITNESS: I could put on a headset with a
10 microphone.

11 MR. MCGOWAN: Let's stand down and then we'll sort
12 that out.

13 THE REGISTRAR: This hearing is adjourned for
14 five minutes until 12:46 p.m. Thank you.

15 **(WITNESS STOOD DOWN)**

16 **(PROCEEDINGS ADJOURNED AT 12:41 P.M.)**

17 **(PROCEEDINGS RECONVENED AT 12:46 P.M.)**

18 THE REGISTRAR: The hearing is now resumed,
19 Mr. Commissioner. Thanks for waiting.

20 **JOHN ZDANOWICZ, a**
21 **witness for the**
22 **commission, recalled.**

23 MR. MCGOWAN: Please carry on with your presentation
24 when you are ready, sir.

25 TECHNICAL COORDINATOR: I believe you are muted.

1 MR. MCGOWAN: Can you assist the Professor to locate
2 the unmute button while he is screen sharing.

3 TECHNICAL COORDINATOR: Professor, the mute and
4 unmute button is on the left side at the bottom.
5 Phoenix, maybe you can stop sharing and he'll
6 unmute himself and we'll go again.

7 THE REGISTRAR: Professor, I stopped sharing the
8 screen right now. Are you able to unmute
9 yourself?

10 THE WITNESS: You hear me now?

11 THE REGISTRAR: Yes, so I'm going to share the screen
12 again, and you have to make a request to take
13 control. All right.

14 THE WITNESS: Right.

15 THE REGISTRAR: Thank you.

16 THE WITNESS: Do I have control?

17 THE REGISTRAR: Not yet. You have to do the request
18 like last time.

19 THE WITNESS: Right. Okay. Okay. We ready? As I
20 mentioned -- everybody hear me okay?

21 THE COMMISSIONER: Yes, that's very good. Thank you.

22 THE WITNESS: Okay. There were 11 red flags of which
23 five trade data isn't going to help, but there
24 are six out of the 11 that can help law
25 enforcement and financial institutions analyze

1 and detect potential trade-based money
2 laundering. One is conducting business in
3 high-risk jurisdictions. Now, the definition of
4 high risk I do it statistically. Shipping
5 products through high-risk jurisdictions. Like
6 for example, in US import documentation there
7 not only is a country of export but a country of
8 origin so that if somebody wanted to ship
9 something from Iran to the US undetected they
10 could ship it through France to the US.
11 Transactions and high-risk products, those are
12 normally -- I mean, people all think of ammonium
13 nitrate and arms and ammunition, but my analysis
14 looks at the products as a percentage of trade
15 of abnormality. Misrepresentation of quantity
16 and type of products, invoices inconsistent with
17 customs documents, and most of my work is
18 obvious over- and underpricing of products.

19 So when I deal with financial institutions
20 we talk about character-based, I call it
21 character-based auditing. The current
22 procedures of financial institutions, customer
23 due diligence, know your customer, looking at
24 OFAC lists, looking a PEP lists, looking at the
25 corruption index list. The problem is from a

1 characteristic perspective none of these have
2 anything to do with international trade. They
3 are generic and they should be used, but I'm
4 suggesting character-based audits based on the
5 analysis of the trade data. And I've come up
6 with what I call a country risk index, a customs
7 district risk index, which in Canada would be a
8 province district risk index and a product risk
9 index. So in the US trade database I did the
10 analysis of 239 countries and this data I update
11 monthly. And that's another thing, too, is in
12 doing the type of statistical analysis it can't
13 be static because prices change over time.
14 There could be a major crisis in the Middle East
15 and the price of oil would go up. So I don't
16 want to use historical pricing to compare
17 current pricing because I'd get a lot of false
18 positives. So I use a 12-month moving set of
19 data. So every month when the new data comes
20 in, for example October of 2020 I get rid of the
21 data for October 2019. So it's updated monthly.

22 And as a percentage, and this I showed
23 before, Bangladesh, Aruba, Croatia were
24 high-risk countries. So when I speak with
25 bankers I say, like, if you have a letter of

1 credit dealing with exports going to Bangladesh
2 you have one red flag, okay, and be aware that
3 that tends to be a high-risk country. What
4 about customs district index? In the US there
5 are 47 and again this is updated monthly. And
6 Washington DC is a high-risk customs district.
7 And in Canada there is a high-risk province.
8 Okay. So now for a financial institution or
9 even law enforcement if you're talking about
10 exports going to Bangladesh being shipped out of
11 Washington, DC, you now have two red flags. Now
12 the product. Even though our analysis is in
13 ten-digit harmonized codes, the World Trade
14 Association has a six-digit harmonized code
15 system. It's more aggregated, but it classifies
16 products into six-digit level and the products
17 that I'm finding, number 1 as a product is cards
18 incorporating a magnetic stripe. So if the
19 transaction that the financial institution is
20 looking at or law enforcement is looking at if
21 it's an export to Bangladesh shipped out of
22 Washington, DC, of store value cards you've got
23 three red flags. Doesn't mean anything is
24 illegal or wrong, but it's red flags.

25 Notice number 11, platinum waste. I notice

1 that a lot of waste precious metals tend to be
2 involved. But these were just a rank order and
3 it changes every month. Depending on -- and
4 again these are all coded by harmonized code
5 number so on a computer you can just spot the
6 code number and find out if it falls within this
7 list. Okay. Now, those were the
8 character-based audits. So I would argue that
9 if the transaction again is store value cards
10 shipped out of Washington, DC, to Bangladesh you
11 need to go in even farther and you have to look
12 at the pricing.

13 Now, there are certain products that are
14 traded on public exchanges. You don't need to
15 do any statistical analysis. Okay. You just go
16 pick up the *Wall Street Journal* and look at the
17 Chicago Mercantile Exchange and if you're
18 dealing with soybeans, beef, silver, wheat, oil,
19 rubber, corn, coffee, pork bellies, you can just
20 go and look at spot prices in the *Wall Street*
21 *Journal* to find out if the price of the item you
22 are financing or on the transaction is abnormal.
23 But most products aren't traded on exchanges.
24 Bicycles, automobile tires. So those products
25 you need to do a statistical analysis of the

1 trade database, in my case US trade database and
2 now the Canadian database.

3 And I developed something called the
4 international price profiling system. It's
5 web-based and the key thing with this system is
6 you can check a price in realtime. You can
7 check a price in realtime. All you need is an
8 internet connection. The problems with
9 determining market prices, there's over
10 6 million product country combinations. Okay.
11 When reporters call me and ask sort of how we do
12 the analysis, I say think of a table with close
13 to 30,000 commodity codes as rows and 239
14 countries in the world, you come up with a
15 matrix that's over 6 million cells. Well, those
16 are different product country combinations.
17 Prices change over time, so that makes it more
18 difficult. And no individual in the government
19 or any financial institutions can be an expert
20 in all products. So my suggestion is that
21 banks, financial institutions, law enforcement
22 agencies should do statistical analysis of
23 historical trade pricing.

24 And the statistical approach and audits and
25 inspection is basically to determine benchmark

1 upper and lower bound prices based on
2 statistical analysis of the past 12 months, for
3 every product for every country for the world
4 updated monthly, detect transactions that fall
5 outside the benchmark prices. They have a high
6 probability of being abnormal than the
7 population. This is no different than in
8 manufacturing, production quality control. As
9 items are moving down the assembly line, they're
10 being checked for their accuracy and if they get
11 past a certain point, they shut down the
12 assembly line, readjust it and get it back. So
13 it's no different than that. It's statistical
14 analysis. Okay.

15 Now, the data that I use, I mentioned
16 earlier is purchased. I purchase it from the
17 department of commerce, bureau of census. And
18 basically there's a little more than
19 9,000 export product codes, 18,000 import
20 product codes, 239 countries and 47 customs
21 districts. Okay. And I develop two
22 methodologies, one I call the international
23 price profiling system, which looks at the upper
24 and lower bound at the 95th and the 5th
25 percentile. What I found in doing the analysis

1 with the trade data given to me by the
2 government is there would be too many false
3 positives for the financial institution if we
4 use the transfer price profiling system. And so
5 the 5th and 95th work, and this is where we get
6 into the size of the data set that we have to
7 analyze. There are over 9,000 import codes,
8 over 18,000 export codes. Think of those as
9 columns, 239 countries plus the world,
10 6.6 million combinations. This matrix that we
11 analyze is only good for one month. As the new
12 data comes in we truncate the old data, put it
13 into new data and we calculate all of these
14 numbers.

15 Now, the transfer price profiling system is
16 based on the IRS 75th and 25th percentile, and
17 actually in the analysis I can do analysis at
18 any percentile level. I actually had a client a
19 while back who wanted not the 5th and 95th but
20 the 10th and the 90th percentile. So that can
21 be done. That just goes in, tweaking the
22 computer software, but again the same number
23 6.6 million combinations. This is the one that
24 I use when I'm measuring the magnitude of
25 potential trade-based money laundering.

1 Okay. And I basically have come up with my
2 early work I would say things like this is money
3 laundering or it isn't and I was told I
4 shouldn't do that and I agreed, so I let the
5 financial institutions and law enforcement
6 decide what they want to call it. But basically
7 I have four filters. If it violates all four in
8 one direction it's a very extreme indication.
9 If you look at the middle, if it violates none
10 of the price filters then there's no risk, let
11 the transaction go. If it's a plus 4 it
12 violates four filters, it's indication of money
13 being moved into the country. And let me give
14 you an example. The US exports of tomato
15 ketchup to Kuwait. At one time I was asked to
16 do some analysis on what are called Al-Qaeda
17 watch list countries of which Kuwait was one.
18 So the way the system works is we are looking at
19 exports. Okay. And we don't know the code
20 number for tomato ketchup, so we type in the
21 word "tomato." See where we typed it in. It's
22 an export but we don't know the code number and
23 there's "tomato ketchup." That's the 10-digit
24 harmonized code number so you don't have to be
25 the familiar with all the code numbers. The one

1 that's interesting on this page is look at the
2 bottom line. When I pull this up I'm saying
3 what is this? Everything else has got
4 "tomatoes" in it. This is tailors, dummies,
5 mannequins, automations [sic]. But look at the
6 word automations [sic], t-o-m-a-t-o is in that
7 definition, so it pulled that number. So any
8 place in the US trade database that has the word
9 "tomato" in it is pulled up on this chart.
10 Submit that in. Now you've got to pick a
11 country. There's a drop-down menu and we are
12 interested in Kuwait and at \$.14 a kilo this is
13 a minus 4 risk index. Because this is the table
14 that does the analysis for banks or law
15 enforcement. There were 2,378 export
16 transactions to the world during the 12-month
17 period before. Okay. And then during that same
18 period of time 26 of those transactions were
19 exports to Kuwait. At a price of \$.14 a kilo,
20 these are the four filters the 5th, 95th
21 percentile, and the main plus or minus two
22 standard deviations, okay. Those of you who
23 have had statistics understand this. But
24 basically \$.14 is below all of the lower bounds
25 of these four filters. It's below \$.55, it's

1 below \$.30, it's below \$.51, below \$.16, has a
2 risk index then of minus 4. Does not
3 necessarily mean this is money laundering.

4 Okay. I should probably stop here. When I
5 observe an abnormal price or the system detects
6 an abnormal price, there are three plausible
7 mutually exclusive explanations for that price.
8 One, and I use the old television show *The Price*
9 *is Right*. There is a reason that this item is
10 priced at this high price or this low price.

11 Okay. So there could be a justifiable reason.
12 A few years back I picked up fax machines being
13 imported in from Japan at \$25,000 a fax machine.
14 When they looked into it it was because they
15 were prototypes of machines and they were worth
16 that much. Okay. So the price could be right.
17 The price could be wrong. There can be a
18 clerical error in the trade database, and so in
19 fact again in one case it was on a precious
20 metal they put in kilograms instead of grams.
21 Well, that obviously changed the analysis. And
22 the third possible explanation is the price is
23 abnormal. So the price is right, the price is
24 wrong or the price is abnormal. So doesn't
25 necessarily mean unless its price is abnormal

1 that it could be money laundering. 14 cents is
2 a high indication of money moved out of the
3 country. At a price of a dollar a kilo it's all
4 within range. Risk index is zero. If you're a
5 bank, finance it, no questions asked. If you're
6 law enforcement don't look at it any further.
7 And for price of \$3.75 a kilo the risk index is
8 plus 4, this looks like it's money being moved
9 into the United States. Could be to support
10 terrorist activities, but it's money moved into
11 the US. So this is on the export side.

12 Importing soccer balls from Pakistan is
13 imported analysis. We don't know the code
14 number for that, so we submit that in and there
15 it is for soccer balls. This is a listing of
16 everything that has -- okay, basketballs,
17 volleyballs, baseballs. But that's the code
18 number. The country we want is Pakistan. If
19 we're importing these for \$.30 a piece, that
20 looks like it's money being moved in to the US.
21 Note that this analysis looks at over
22 3,000 import transactions from the world of
23 soccer balls and the statistics and 900 and 66
24 from Pakistan. And notice at \$.30 it's below
25 all the lower bounds and therefore this is an

1 undervalued import, which means it's probably
2 money moved into the US. At a price of \$2.95
3 it's inbound, let it go, it looks like it's a
4 normal transaction. At a price a \$30 a
5 basketball, okay, at that price -- it's minus
6 rather. It looks like it's money laundering out
7 of the country, okay, because it's overvalued.

8 Now, the applications of the international
9 price profiling is statistical analysis. It's
10 the application of statistical analysis. It can
11 be used by governments for investigative
12 analysis, for money laundering, tax avoidance,
13 tax evasion, import duty, fraud, banks, to avoid
14 financial financing illegal transactions. Banks
15 don't want to unknowingly be financing a money
16 laundering transaction. Also determining
17 something called value at risk. Accounting
18 firms should be using this type of analysis when
19 auditing transactions of their clients.
20 Attorneys for litigation evidence. Insurance
21 companies to avoid insurance fraud. And
22 businesses from honouring abnormal trade
23 patterns. The one I find with this analysis
24 that's kind of interesting besides the money
25 laundering aspects, it's the first time that

1 there's a price list of the world. One of the
2 problems of international trade is you don't
3 know what the price is in all countries. So if
4 I'm exporting a product, I'd like to know who is
5 paying the high prices so I can export to that
6 country. Conversely, if I'm importing molasses,
7 I want to know which countries have the lowest
8 price of molasses. This type of analysis can
9 detect that information and improve the quality
10 of international trade.

11 Okay. Now, back in 2004 I was invited to
12 Ottawa for a two-day period of time and on the
13 12th I met with people from the Canadian Revenue
14 Agency, Border Service Agency, Ministry of
15 Finance, Export Development Corporation and
16 Statistics Canada and then we went offsite and
17 went to FINTRAC, and I made a presentation
18 there. And I'll show you some of the things
19 that I had presented. Now, this is all based on
20 US data. What I do is I flipped the data. US
21 imports are Canadian exports, so I could just
22 flip the data around and basically showed that
23 the amount of money moved from the US to Canada
24 was 1.17 trillion -- or billion. And 2.43 money
25 going from Canada to the US. More money leaving

1 Canada than coming in. Okay. And then I went
2 through and based on the US trade data came up
3 with sample transactions that didn't make any
4 sense. The first one was gold bullion based on
5 content gram. The customs district, again this
6 is overvalued exports to the US from Canada,
7 overvalued US imports. There were
8 11 transactions. 4 million 429 grams at a unit
9 for \$59 million, unit price of \$13.39 a gram;
10 the upper quartile price was \$12.50. So these
11 items, these grams of gold were overvalued by
12 \$.89 per gram. Multiply that by the number of
13 grams and this was a 3,941,000 overvalued amount
14 that could be money being moved out of Canada.
15 Okay.

16 Next one is money moved from US to Canada
17 under valued Canadian imports, which is under
18 valued US exports. Bulldozers, new bulldozers
19 being exported out of North Dakota,
20 44 transactions, 465 bulldozers valued at
21 11.7 million. Unit price 25,000 a bulldozer.
22 Lower quartile price 51-. The undervalued
23 amount was 26,000 per bulldozer. Okay. Meaning
24 that \$12 million was the undervalued amount.
25 Because there were 465 of them. Okay.

1 The next one was money removed from Canada
2 to the US. This is for a month, December 2003.
3 Undervalued Canadian exports to the US. French
4 doors out of Seattle. 7,325 of these French
5 doors valued at 185,000, unit price \$25.37,
6 lower quartile price 66. Each door was
7 undervalued by \$41 resulting in basically
8 \$300,000 being moved.

9 And the last one were razors. Again out of
10 North Dakota. This is overvalued Canadian
11 import. It's money moved out of Canada.
12 664,000 razor blades valued at 1.6 million, unit
13 price \$2.53. Upper quartile price was \$.82.
14 The overvalued amount \$1.71 leading to
15 1.33 [sic] million money being moved.

16 Again this is based on the US data and
17 flipping it over. However, after being
18 contacted by representatives from the Cullen
19 Commission I mentioned that I could continue
20 doing it using trade data from the US, but if I
21 had access to the Canadian data I could develop
22 the same thing. And so again I want to thank
23 Statistics Canada. They did a great job in
24 getting us the data and this was the results of
25 our data analysis. Okay. I produced -- we

1 produced five reports, which I'll show you the
2 2019 report, basically which shows that during
3 2019 -- I call these the macro reports -- that
4 there was undervalued exports resulted in
5 45 billion moved out of Canada. Overvalued
6 imports 44 billion moved out of Canada for a
7 total of \$90 billion moved out of Canada during
8 2019. And this is a graph of this and looking
9 at the graph again there's undervalued exports,
10 overvalued imports. And notice that there's an
11 been an increase in 2007, '18 and '19. It might
12 be because -- I'm not sure of this, just
13 conjecture -- the US lowered its corporate tax
14 rate and so Canadian firms may have wanted to
15 shift their taxable income to a more favourable
16 tax rate. Again that's just conjecture on my
17 part, something economists could study. Okay.
18 And then again money moved out of Canada by
19 country, US is number 1, 63 billion. Next is
20 China and Germany. This is detailed for every
21 country in the world in those reports.

22 Now, as I mentioned before dollar values
23 don't help detecting money laundering, but if
24 you look at percentage of trade there's a
25 Kiribati. I looked that up, but it's apparently

1 some small island country in the South Pacific.
2 Not a lot of money, but a high percentage.
3 Switzerland, Ireland again because of its tax
4 rate probably, Germany, Malaysia, Belgium,
5 Panama. These are eventually what would be
6 high-risk trading countries for the Canadian law
7 enforcement. Okay. And money moved out of
8 Canada by province. Okay. And there's
9 British Columbia taking separating it by -- in
10 the US I do it by customs district. In Canada I
11 did it by province. And 4 billion due to
12 undervalued exports from British Columbia,
13 4 billion overvalued imports, or 8 and a half
14 billion for British Columbia being moved out
15 through faults or abnormal pricing. As
16 a percent of trade by Canadian province, the
17 Yukon pops up as number 1. Not a lot of money
18 but high percentage rate. Saskatchewan. And
19 British Columbia is sort of towards the lower
20 end of the pack. Okay. Only 5.89 percent. So
21 this is percentage trade. Money moved into
22 Canada 20.3 billion overvalued exports,
23 undervalued imports 124 billion for a total
24 moved into Canada of 144. And there's the
25 analysis by year graphically. Okay. Again,

1 money moved into Canada by country, number 1 is
2 US, 78 billion moved in. Number 2 is China then
3 Germany, Mexico as dollar value, but as
4 a percent of trade Trinidad and Tobago come out
5 on top. 1.2 billion moved into Canada from
6 Trinidad and Tobago. Finland, Spain, Tanzania,
7 Greece, El Salvador, Botswana. So these are
8 sort of the high-risk countries of money coming
9 in. Then money moved in by province,
10 British Columbia is number 3, 16 billion
11 540 million moved into British Columbia, and
12 again in reading and looking at prior testimony
13 one of the problems in British Columbia is real
14 estate pricing is extremely high. Well, this
15 could be the source of the money being used to
16 put it into real estate, money moved in through
17 false invoicing. As a percent of trade,
18 Northwest Territories is the highest. Okay.
19 And British Columbia is in the middle of the
20 pack.

21 Now, so money moved out of British Columbia
22 4.34 billion, this is 2019, through undervalued
23 exports. Overvalued imports 4.15. A total of
24 8.41 billion moved out of British Columbia.
25 This is the British Columbia graph. No

1 significant abnormalities in the graph. It's
2 kind of consistent. Money moved into
3 British Columbia. Most of it's coming because
4 of undervalued imports being brought in for
5 total of 16.54 billion moved into
6 British Columbia. That's the graph of the years
7 '15 to '19. Now, I mentioned those were based
8 on what I call the macro reports, but now I dug
9 into the actual data and came up with
10 10,000 suspicious transactions of overvalued
11 imports, undervalued exports, undervalued
12 imports and overvalued exports. And one money
13 moved out of British Columbia due to undervalued
14 British Columbia exports, digital cameras, okay,
15 they're quantified by number of units, this was
16 an export to Australia in September of 2019.
17 There were 77 transactions, there were
18 10,729 cameras exported for a value of
19 \$1.12 million, a unit price of \$104 a camera.
20 Lower quartile price for that item was \$606, so
21 theoretically each camera was undervalued by
22 \$501 for a total movement of money \$5.3 million.
23 That's just one example.

24 Money moved out of due to overvalued
25 British Columbia imports. The product is beer.

1 Made from malt. It's denominated in litres,
2 British Columbia imported it from Mexico. This
3 is for June of 2019. There were four
4 transactions in June. 1.12 million litres for a
5 value of \$3.69 million Canadian, unit price was
6 3.27 a litre. Upper quartile price was 1.55.
7 Therefore each litre was overvalued by \$1.72
8 resulting in a movement of money out of
9 British Columbia to Mexico of \$1.9 million.

10 Okay. Money moved into British Columbia.
11 One of the products I found was shrimps frozen
12 in the shell. They are denominated in
13 kilograms. The country they were exported to
14 were China. This was August of 2019. There
15 were four transactions. 81,000 kilos valued at
16 \$2.8 million Canadian. Unit price of 34.51 per
17 kilo. The upper quartile price was 6.82.
18 Overvalued by \$27 per kilo or resulting in
19 \$2.249 million moved into British Columbia.

20 Last one is dishwashing machines, household
21 type. Okay. Number of dishwashing machines,
22 this was an undervalued British Columbia import.
23 So it's money moved into British Columbia. It
24 was done in August of 2019. There were 25
25 transactions. 195,000 dishwashers were imported

1 in. Valued at 1.4 million, unit price of \$7.18.
2 The lower quartile was \$339. Therefore this
3 resulted in a movement of 64, almost \$65 million
4 of money being moved into British Columbia. So
5 this is digging down into the data. I believe
6 also this data could be actually tracked down
7 farther into the actual ports within
8 British Columbia. We didn't do that. That
9 would be another way of even getting in more
10 data. Okay. And basically the conclusion is
11 mitigating trade-based money laundering, TBML,
12 requires statistical analysis of the Canadian
13 trade database. One, historical trade
14 transactions can be done. This is like the
15 macro reports. And the product reports that we
16 just --

17 THE COMMISSIONER: I think we're probably going to
18 have to stand down again.

19 THE WITNESS: Okay. I've got one more slide and I'll
20 be done with this section. And then in realtime
21 would be something like the international price
22 profiling system. Okay. My conclusion is --

23 MR. MCGOWAN: If I can interject. Mr. Commissioner,
24 are you having difficulty with the sound? I
25 think we have -- it's fine. We lost the

1 Commissioner there for a second and it's
2 important that he hear.

3 THE WITNESS: Okay.

4 THE COMMISSIONER: I think I'm back. I was just
5 informed the internet went down again, but it
6 appears we're back.

7 MR. MCGOWAN: Madam Registrar, can you confirm --
8 well, I'm not seeing --

9 TECHNICAL COORDINATOR: We need a minute, please.
10 Thank you.

11 MR. MCGOWAN: Shall we stand down for five minutes?

12 THE COMMISSIONER: Yes, let's do that.

13 MR. MCGOWAN: I apologize, Professor. We seem to be
14 having technical difficulties on our end this time.

15 THE WITNESS: Okay. No problems.

16 THE REGISTRAR: The hearing will stand down for
17 five minutes until 1:32 p.m. Thank you.

18 **(WITNESS STOOD DOWN)**

19 **(PROCEEDINGS ADJOURNED AT 1:27 P.M.)**

20 **(PROCEEDINGS RECONVENED AT 1:32 P.M.)**

21 **JOHN ZDANOWICZ, a**
22 **witness for the**
23 **commission,**
24 **recalled.**

25 THE REGISTRAR: The hearing is now resumed.

1 Mr. Commissioner.

2 THE COMMISSIONER: Yes, thank you. Yes, Mr. McGowan.

3 **EXAMINATION BY MR. MCGOWAN (continuing):**

4 Q I believe, Professor, you are concluded with the
5 PowerPoint. Is that correct?

6 A Right.

7 Q You just had one last slide. Maybe you can tell
8 the Commissioner what that last --

9 A It says "follow the data." That was the
10 conclusion. The best way -- you know, the one
11 thing looking at some of your past testimony,
12 one way to look at trade-based money laundering
13 is from the macro perspective and then working
14 your way down by doing IMF studies, Brigitte
15 Unger and the gravity models, you know, you can
16 do it from that perspective. My perspective
17 starts with the micro. I look at every single
18 transaction and work my way up, and so to me a
19 better way, okay, it's not just measuring the
20 macro variables; it's how you find actual
21 transactions. You're looking for a needle in a
22 haystack and the best thing is to start with the
23 needles and see which needles are strange, and
24 so I take it from that perspective, so my
25 concluding slide said "follow the data."

1 Q And maybe I'll just ask you a couple of
2 questions about that. I understand you're going
3 to go to the charts and walk the Commissioner
4 through them a little bit. You gave some
5 examples to the Commissioner of washing machines
6 and shrimp and beer having anomalous pricing
7 which was indicative of money being moved in or
8 out. Could that trade data that you were
9 provided in the hands of law enforcement lead
10 them to the particular company conducting those
11 transactions?

12 A Sure. Because the data that you gave me from
13 Canada and the data I get from the US has an
14 important field that's been deleted, the name of
15 the importer or the name of the exporter because
16 of privacy issues, which I agree. Sharing
17 transactions is different than sharing the names
18 of the companies involved or the individuals
19 involved. And so when any of those four
20 transactions that I showed are spotted, law
21 enforcement can simply go to customs and say
22 what's the name of the company that did this,
23 what is the name of the individual? And then
24 follow up from there. So yeah, your government
25 agencies have the detail data.

1 Q And does the updated pricing information that
2 you have, is it such that it would allow law
3 enforcement to in realtime evaluate the nature
4 of a transaction and determine whether it was
5 anomalous or not?

6 A Sure. The international price profiling system
7 and the transfer price profiling system are
8 meant to be used in realtime. Against the IPPS
9 was designed for banks who are faced with a
10 letter of credit request, so they need to know
11 instantaneously if the price of the items being
12 financed are abnormal. Actually one of the
13 banks that I deal with gave me permission to
14 divulge there's a State Bank of India is using
15 this and any time they have a transaction for a
16 letter of credit they input the item and they
17 find out if the price is within range or that
18 plus 4 to minus 4 analysis.

19 Q From a law enforcement perspective if they had
20 sufficient resources they could take trade
21 transactions, run them through this analysis and
22 determine in realtime what transactions to
23 target from an investigative perspective?

24 A Sure.

25 Q Is that fair?

1 A Right. Now, again the financial institutions do
2 it manually. Every time there's a request for a
3 letter of credit they input the data into the
4 system and it detects whether it's normal or
5 not. Law enforcement could have that all
6 computerized, but you hook into the let's say
7 the trade probably law enforcement would want to
8 use the transfer price profiling system and see
9 anything that came out and the names of the
10 companies, and that's the key thing, the names
11 of the companies involved in the transactions,
12 and then go back in time and look at other
13 transactions to find out if this is a pattern or
14 just a one-time anomaly.

15 Q So Canada has right now the data to generate a
16 list of those companies who are routinely
17 conducting anomalous trade transactions which
18 look like money being moved out or into the
19 country?

20 A Right. The four examples I gave Statistics
21 Canada has the names of the company.

22 Q And they also have the data that would allow
23 with some appropriate computer programming the
24 generation of a list of suspicious companies or
25 individuals engaging in these transactions?

1 A Right. Correct.

2 Q I understand you have some examples you want to
3 take the Commissioner to from the macro and
4 micro reports. I'll let you do that now.

5 A Yeah. Madam Registrar, we need the trade price
6 analysis. This was a report that was produced
7 for the years 2015 for the Cullen Commission and
8 let's just scroll down this table. Table 1 is
9 the amount of money moved out of Canada by
10 country. Table 2 by country as a percent of
11 trade. Table 3 moved out by province. Dollar
12 value. Moved out by province percentage of
13 trade. Then money moved in. Dollar value into
14 Canada percent of trade and then money moved
15 into Canada by province as a percent of trade.
16 And so page 29 is the total trade by country
17 with Canada and then total trade by province.
18 So this was basically a 36-page report done for
19 the five years based on the data I was supplied.

20 Madam Registrar, could we actually flip
21 through the beginnings of these tables.
22 Table 1. Okay. This is the money moved out of
23 Canada by country. Again remember that was top
24 country United States then China. Let's go to
25 -- and I go through every single country in the

1 world that traded with Canada. It's table 2.
2 This is the percentage of trade. This is where
3 I came up with the high-risk countries for
4 Canada. And so this is a listing of every
5 country in the world that Canada trades with
6 ranked by percentage of trade. Table 3.

7 Table 3. Money moved out of Canada by
8 province and you've already seen that, but this
9 was done for every year for five years. And
10 British Columbia is number 4. 8.4 billion moved
11 out. Next table. Money moved out of Canada by
12 province. Yukon ranks number 1, Saskatchewan
13 and again British Columbia is down in the middle
14 of the pack, the 8th.

15 Next table. This is money moved into
16 Canada. Major country there is the United
17 States. 78 billion moved in. But China is
18 moved in. So these are the -- next table,
19 please. This is as a percentage of trade. But
20 again this is for every country in the world.
21 Trinidad and Tobago, Lesotho, Finland, Spain,
22 Tanzania, Greece, El Salvador. Next table.

23 Moved into Canada by province.
24 British Columbia is third. 16 billion moved in
25 during 2019. Okay. Dollar value, Ontario is

1 the biggest. Table 8. This is money moved into
2 Canada by province as a percentage trade.
3 Northwest Territories is the highest, but not a
4 lot of money. Only \$12 million Canadian. This
5 report was done every year for five years and it
6 gives a macro view of what's going on with
7 abnormal pricing and international trade between
8 Canada and every country in the world. Okay.

9 Madam Registrar, can we bring up the exports
10 under report.

11 THE REGISTRAR: Yes, I will. Just give me one
12 minute.

13 MR. MCGOWAN: Madam Registrar, I wonder if you could
14 identify the exhibit number for the record of
15 the previous document and this one.

16 THE REGISTRAR: Yes, this one is 370. And Professor,
17 you can request control.

18 THE WITNESS: Okay. This is what I call the micro
19 analysis. It's actually looking at these
20 transactions -- let's see. I think we can leave
21 it this way. Everybody see this? This is an
22 Excel spreadsheet. Let me explain something.
23 Let's take a look at this first one.
24 Smartcards. Okay. This is the harmonized code
25 number. This is the description of what it is.

1 This is the country that these were exported to.
2 BR is British Columbia. The month and year.
3 The number of transactions during that month.
4 The quantity and the unit of measure is number.
5 Okay. Value is 82,000, shows a unit price of
6 \$.08. The lower quartile price is \$1.41 65
7 [sic] so each of these smart cards was
8 overvalued by 141 resulting in potentially of
9 movement of \$148 million out of
10 British Columbia. Okay. I'll just go through
11 some of these.

12 Let me just see which line I want to go to
13 here. One I picked out here just to look at.
14 This is what law enforcement can use to find
15 transactions to follow up on. This is the
16 harmonized code number. The item is
17 prefabricated buildings of wood. This was
18 exported to the United States by
19 British Columbia. In July of 2019. There were
20 six transactions. 1,855 buildings. Valued at
21 \$167,569. Unit price of \$90.33. The lower
22 quartile price is 2,400 so theoretically each of
23 these was undervalued by \$2,300, resulting in
24 \$4.2 million being moved out of
25 British Columbia. So this Excel spreadsheet

1 goes for 10,000 transactions. It's undervalued
2 exports. Also did one for overvalued exports.

3 Madam Registrar, can I have the imports
4 over. Of course those of you familiar with
5 Excel you can take these columns and rank
6 everything. You can do it by country. You can
7 separate it out by product code. You can do it
8 by percentages.

9 THE REGISTRAR: Mr. McGowan, just want to let you
10 know this spreadsheet is exhibit 369.

11 MR. MCGOWAN: Thank you.

12 THE REGISTRAR: And Professor, you can control that.

13 THE WITNESS: Okay. Oh, wait. Request for remote
14 control. These are overvalued imports. Hold on
15 one second. One that I'm not going to focus on
16 right now but was kind of interesting -- hold
17 on. Again there's 10,000 of these. See this
18 one here, pistols. I don't know why this is
19 moving by itself. Anyway, there were pistols,
20 four them worth \$700,000 each. Somebody ought
21 to look at that. Okay. There they are.
22 Pistols, single barrel, four of them for
23 \$2.9 million or \$730,000 per pistol resulting in
24 the upper quartile price was 1,192, so this was
25 almost a \$3 million movement of money and again

1 when you see something like this somebody ought
2 to look at it and say how can that be? This is
3 the number that's in the database. Check it
4 out. You know, maybe there's a reason. Maybe
5 these were the duelling pistols between
6 Alexander Hamilton and Aaron Burr, and that's
7 why they are worth so much. Well, the thing is
8 somebody should look at it because either the price
9 is right, the price is wrong or the price is
10 abnormal.

11 Okay. The next one I want to look at is
12 119. Remember the one I did on beer. There it
13 is. That's the one I showed you before. Beer.
14 Okay. And again these are the same numbers that
15 were in that table, again quantity 1.1 million
16 litres for \$3 million 693. \$3.27 a litre.
17 Upper quartile price was \$1.55. It looks like
18 this beer was overvalued by \$1.72. Again this
19 was trade with Mexico. Looks like it could be
20 moving money, 1.9 million to Mexico. I
21 highlighted some other -- this is not the only
22 one. Here is another beer. Okay. 1.164. This
23 was done in July of 2019. Quite a few beer
24 imports. There's another one in August 2019,
25 resulting 965,000. Looks like money moved out

1 of British Columbia. So this is getting down
2 into the weeds and looking at individual
3 transactions and again what I had sent the
4 commission is a listing of 10,000 suspicious
5 looking transactions. Okay.

6 Now, the last thing I wanted to show, Madam
7 Registrar, is the live hookup to the
8 international price profiling system. Okay.
9 This is again once I made the macro
10 presentation -- I got to -- do I have control of
11 this?

12 THE REGISTRAR: I think you have. Can you try to use
13 your mouse and see if you can scroll it.

14 THE WITNESS: Okay. It's working. As I mentioned
15 when I did the presentation to the Florida
16 International Bankers Association I presented
17 macro analysis like I did here, but then again
18 the bankers called and said what can you do to
19 help us so that we are not involved with
20 financing abnormal transactions. So I basically
21 said give me six months to a year, just let me
22 see what I can develop. So I developed the
23 international price profiling system and let me
24 get into it here. Now, we're a live hookup to
25 the internet, so you're talking about realtime.

1 Let me just get in here. Now, I'm going to do
2 the transfer price profiling system. Okay.
3 Now, we're live right now, and if you were in
4 law enforcement or you were a bank and you said
5 okay, let's take a look at that import of beer
6 to Mexico. Okay. We don't know the code number
7 for beer so I just type it in and then I submit
8 it. And then in the US trade database there are
9 basically three major categories of beer. One
10 is beer imported in glass bottles, this looks
11 like it cans and this looks like it's kegs.
12 Let's take a look at beer in glass bottles.
13 Submit that. Now, which country. This is every
14 county we imported beer from. Okay. And the
15 one we want is Mexico. And the price I think
16 was \$3.25. Submit that. Okay. This shows
17 minus 3. It's high up, it's not 4, but it shows
18 that if I were checking the price of one of
19 those exports or imports of beer from Mexico and
20 I put in the price of \$3.25, \$3.25 is higher
21 than three of the four and this is a high
22 indication of money laundering potential going
23 to Mexico. Now, notice what this looked at.
24 Okay. This is based -- first of all let's look
25 at the top there. This is based on data from

1 October 2019 to September 2020. We just are
2 receiving the October data and we'll update it.
3 Okay. And notice the number of transactions
4 here for the world. This looked at
5 115,000 import transactions of beer throughout
6 the world to come up with those statistics and
7 73,000 from Mexico to come up with those
8 statistics. So fairly sizeable database, but
9 high risk. Okay. Now the Canadian database
10 didn't state whether it was cans, bottles or
11 kegs, so let's take a look at beer again.
12 Submit that. I don't know what is going on
13 here.

14 Now, let's take a look at the other than
15 glass, this is probably canned beer. Pick a
16 country, every country that we imported cans of
17 beer from. We want Mexico. As mentioned before
18 too the idea of price list of the world. Here
19 is what you can find out what the price of beer
20 is. And \$3.25 I submit that in. If it were
21 canned beer -- this could be done in batch
22 processing to law enforcement. Okay. Minus 2.
23 So again it's an indication of money being moved
24 out. Let's go into imports again. Type in
25 "beer." Again submit it. This looks like it's

1 kegs of beer over 4 litres. Submit it. This is
2 what financial institutions can do before
3 they do their letters of credit. Mexico.
4 \$3.25. Kegs of beer, minus 3 again. So these
5 all three again there were 14,000 export
6 transactions or import transactions with the
7 world and 5,600 with Mexico in this data. So
8 this is the international price profiling system
9 or this one is the transfer price profiling
10 system that indicates there's some tax evasion
11 potentially here. But this is how we can do the
12 analysis in realtime both by financial
13 institutions and law enforcement, is to have a
14 system like this set up.

15 This took quite a bit of programming to get
16 this system set up so that it's live in realtime
17 and the thing that has value with this I believe
18 is in a lot of developing countries. I made a
19 presentation on this system down in Guatemala to
20 the vice president down there. The problem is a
21 lot of their ports of entry are out in the
22 middle of the jungle. They don't have a customs
23 office hooked up to a mainframe computer. But
24 with this type of a system, all they need is a
25 satellite phone and a hookup to internet. Once

1 you're hooked up to the internet this system
2 works, this type of system.

3 So this can assist developing countries
4 monitoring their own trade analysis and I really
5 think one of the greatest values on this kind of
6 analysis is the fact that for the first time we
7 have a price list of an item for the world. And
8 those of you that have studied economics,
9 perfect competition requires perfect knowledge.
10 Well, we've never been able to do that in
11 international trade. Well, here at least we
12 have some indication of if you are importing
13 something, who has got the cheapest product. If
14 you are exporting something, who is paying the
15 most for it. So as that information gets
16 disseminated the world markets become more
17 competitive. Okay. And as they become more
18 competitive, these filters even act better
19 because the extremes begin to diminish. So I
20 think the value really of this kind of analysis
21 is for the world economies to have a more
22 efficient international trade marketing system.
23 Okay, that's the rest of my presentation.

24 MR. MCGOWAN:

25 Q Just a couple of more questions, Professor. If

1 I asked you -- you've identified 10,000
2 anomalous transactions in British Columbia in
3 those micro analysis and that was over the span
4 of one year?

5 A Right.

6 Q If I asked you if you were provided with
7 anonymized company data and asked to identify
8 the companies with the most common or the
9 highest dollar value of anomalous transactions
10 over that period, is that something that you
11 could do?

12 A Well, in order to do that the transactions that
13 I've detected would have to be connected by the
14 government to a company.

15 Q Does the Government of Canada in possession of
16 those statistics with the company names still in
17 them, would they have the capability to run an
18 analysis that would identify the ten companies
19 with the highest dollar value of anomalous
20 transactions over a span of a year?

21 A Yes. They could go back in. Once they had the
22 product code number and the month and the
23 province they could go back in and pull the data
24 out of this spreadsheet for that particular
25 company. Now, it's interesting; I'm not

1 interested in doing that. One of the things
2 when I talk to reporters I always tell them, if
3 you're going to do a story about my research,
4 make sure you tell everybody I don't know the
5 names of the people or the companies doing the
6 transactions. I just know the transactions.
7 And that's what I analyze.

8 Q You presented to a number of Canadian federal
9 entities, including Canada Border Services
10 Agency and FINTRAC. That was in 2004?

11 A Right.

12 Q And during that presentation did you explain to
13 them as you have done to the Commissioner the
14 type of statistical analysis that can be
15 accomplished and the type of information that
16 gives about anomalous transactions?

17 A Yes.

18 Q Did you of hear from any of those Canadian
19 entities again after 2004?

20 A There were a couple of emails. Very nice
21 presentation. But that's about it. No one
22 followed up with wanting to implement this kind
23 of analysis.

24 Q Through you at least?

25 A Right.

1 MR. MCGOWAN: Thank you, sir. Thank you very much
2 for the presentation. It has been very
3 informative. Those are my questions. I
4 understand that there may be at least one
5 participant who has some additional questions
6 they would like to ask you.

7 THE COMMISSIONER: Yes, I understand that Mr. Gratl
8 has some questions on behalf of the Transparency
9 International Coalition and he has been
10 allocated 20 minutes. Mr. Gratl.

11 MR. GRATL: Yes, thank you, Mr. Commissioner.

12 **EXAMINATION BY MR. GRATL:**

13 Q So as I understand your statistical breakdown
14 system it's indifferent as to the presentation
15 of the company whether it presents as a lawless
16 company or a rogue band of bikers, it doesn't
17 matter?

18 A Right. I focus on the transaction, not the
19 motivation behind the transaction.

20 Q All right. So essentially detecting a
21 suspicious transaction without regard to the
22 identity of the source of the transaction?

23 A Correct.

24 Q All right. As I understood your presentation
25 when Swiss banks eliminated their secrecy

1 tradition some money laundering transactions
2 shifted to trade-based money laundering?

3 A Correct.

4 Q I take it you would agree that the individuals
5 engaged in money laundering as a high level,
6 they're sophisticated individuals with a very
7 good working knowledge of the systems within
8 which they're operating?

9 A Yes.

10 Q All right.

11 A I would agree with that.

12 Q And as the risk of detection goes up, so too
13 increases the likelihood that they'll shift to
14 different methods that are not detectible by the
15 statistical methods that you've just --

16 A Well, I believe all methods could be
17 statistically analyzed, I think the shift would
18 be to those approaches or typologies that are
19 not being looked at as much. You know, the
20 focus has always been heavily on the financial
21 service sector. And as they focus more and more
22 between the *Patriots Act* here in the US, *Bank*
23 *Secrecy Act* and all of the other regulatory
24 controls, that now the focus has moved that I
25 believe the people are moving their money

1 laundrying or even tax evasion into
2 international trade.

3 Q All right. Your analysis requires the
4 identification of standard prices per weight or
5 unit in order to derive its efficacy, in order
6 to find the outliers?

7 A Right, in the sense that once we look back at a
8 series of data of the price of widgets being
9 imported in from Colombia, then that analysis,
10 that data can be analyzed and you can come up
11 with filters. Now, I'm not totally supporting
12 any statistical filter. I've just got four in
13 my system. You could probably come up with a
14 dozen different statistical filters. And you
15 could compare the price to a large number of
16 filters. As I mentioned, I had one individual
17 contract with me to have the 90th and the 10th
18 percentile, not the 5th and 95th. So you can
19 move it around and do the analysis based on any
20 statistical filtering systems. I assume there
21 are some statisticians out there that could come
22 out with some very sophisticated, more
23 sophisticated than I can do, filtering systems.

24 Q All right. In your dealings with the Canadian
25 government is it fair to say that you have

1 encountered a good deal of variation between the
2 mathematical competence of different
3 departments?

4 A Well, I've never interacted directly with any of
5 the departments. The only thing I've -- I was
6 invited by FINTRAC back in 2004 to make my
7 presentation. They had read about my research.
8 But I never interacted directly with any of the
9 agencies in the Canadian government to determine
10 their understanding of statistical filtering,
11 for example.

12 Q And -- sorry, I didn't want to interrupt.

13 A Yeah, I believe they all understood what I was
14 doing, but I never interacted with them
15 directly.

16 Q Have you ever been approached by the Royal
17 Canadian Mounted Police?

18 A No.

19 Q Or the Canada Border Services Agency?

20 A No, not contacted by them.

21 Q Are you aware of how far into the past
22 Statistics Canada keeps its trade data?

23 A No, I'm not sure about that. Again we got 2015
24 through 2019 data, but I'm not sure how far back
25 they go.

1 Q All right. For service-based trade-based money
2 launders would it be more difficult to do the
3 statistical analysis because the services are
4 less comparable than the goods; is that right?

5 A Well, the problem is there's no database.
6 Because I get asked that a lot about US data.
7 There is no -- and we have the merchandise trade
8 database and US and in Canada, but there is not
9 a database that contains services and the value
10 of those services. So you can't do an analysis
11 because there's no data.

12 Q All right. So would there be an obstacle to
13 your mind to creating such a database or
14 requiring disclosure of cross border service
15 transactions?

16 A I think there's -- well, the problem might be
17 the heterogeneity of the value of the services,
18 in a sense that hiring a computer programmer who
19 completed one course in college versus a
20 computer programmer who graduated from MIT, you
21 know, they're going to have different hourly
22 rates.

23 Q Very difficult. I mean, but it took the World
24 Trade Organization decades to come up with its
25 classification system?

1 Q All right.

2 A So there could be a lot of improvements in the
3 data at the world level. The one thing I find
4 interesting is sort of a nationalism thing of
5 everybody wants to use their own code numbers.
6 I don't really care what a code number is. A
7 fountain pen is a fountain pen. It ought to
8 have a code number for every country in the
9 world.

10 Q So there can be trade-based money laundering
11 using no products and services at all in the
12 form of derivatives, cross border derivatives
13 transactions, for example?

14 A Yeah, I'm not a special in derivatives. But in
15 fact I've been talking to a colleague from the
16 university who's a specialist in derivatives.
17 With derivatives, normally as a finance
18 professor we think of derivatives to minimize
19 risk of loss. Well, I can also use derivatives
20 to make sure I lose and you gain. So to me that
21 is an area I'm talking with her about doing some
22 research on how to use derivatives to move money
23 across borders.

24 Q Sure, you could just, for example, backdate a
25 derivative transaction, and you could gain

1 exactly the outcome?

2 A Sure. I mean, I haven't looked into it in
3 detail, but again the way we use derivatives in
4 finance is to minimize risk. I can also
5 increase my risk and guarantee that I lose
6 money.

7 Q So you would want to have a registry for those
8 type of transactions, too, if you wanted to
9 start accumulating a data set that could be
10 mined for anomalous transactions?

11 A I think first before that there's got to be a
12 enough research to detail how you would actually
13 launder money using derivatives. I haven't seen
14 anything like that. In fact that's what I'm
15 thinking of working on with her to see if we can
16 actually -- just as I showed how you can launder
17 money with trade buying those gold watches and
18 exporting them for a low price or buying the
19 razor blades, we need to go through ourselves
20 and check out how you would structure a
21 transaction before we can -- you know, is this
22 feasible to actually detect it. I don't know.
23 Actually I'm am not an expert on derivatives. I
24 mean, I know enough generically. So the first
25 thing is for us or somebody in the academic

1 community or in the real world to study how you
2 can use a derivative to move money.

3 MR. GRATL: Thank you, Professor. Much appreciated.

4 THE WITNESS: Thank you.

5 MR. GRATL: Mr. Commissioner, those are my questions.

6 THE COMMISSIONER: Thank you, Mr. Gratl. Anything
7 arising, Mr. McGowan?

8 **EXAMINATION BY MR. MCGOWAN (continuing):**

9 Q I suppose I should ask for the benefit of the
10 record, Professor, can you just explain very
11 briefly what a derivative is?

12 A Basically it's a security based on the price of
13 another security. When we think of -- and the
14 way it's used in finance is there's futures,
15 puts, calls, it's basically looking at the price
16 of a particular item and deriving another
17 instrument on that. So, for example, if I'm a
18 farmer and I want to guarantee the price that I
19 can sell my corn at, okay, I can set up a
20 futures contract where I'm guaranteed a price.
21 Well, the contract has a value and if the price
22 in the real world goes up, the value of the
23 contract goes up. If the price goes down, then
24 the value of the contract goes to zero because I
25 can buy it cheaper in the open market. So we're

1 looking at the value of the contract based on
2 the price of corn. So it can be used in that
3 perspective. There's also interest rate
4 derivatives. Again I'm not a specialist on
5 derivatives, but it's a financial instrument
6 based on the price of some item, interest rates,
7 agricultural products, stock derivatives. An
8 option to buy a share of stock at a certain
9 price. That option is a derivative security.

10 MR. MCGOWAN: Thank you. I have nothing further,
11 Mr. Commissioner.

12 THE COMMISSIONER: Thank you, Mr. McGowan. Thank you
13 very much, Professor Zdanowicz. I think it was
14 a most interesting explanation of your work and
15 I think you have helped us explore some areas
16 that will really contribute to our commission's
17 output at the end. So I'm very appreciative of
18 the time and your sharing your expertise and
19 experience with us.

20 THE WITNESS: Okay. Thank you for the opportunity.

21 THE COMMISSIONER: Thank you. All right. We will
22 adjourn now until Monday morning. I think we
23 are at 9:30, Mr. McGowan.

24 MR. MCGOWAN: Yes, 9:30, Mr. Commissioner.

25 THE REGISTRAR: The hearing is now adjourned until

1 December the 14th, 2020, at 9:30 a.m.

2 **(WITNESS STOOD DOWN)**

3 **(PROCEEDINGS ADJOURNED AT 2:18 P.M. TO DECEMBER 14, 2020)**

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