

**PROCEEDINGS AT HEARING  
OF  
MARCH 12, 2021**

**COMMISSIONER AUSTIN F. CULLEN**

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**March 12, 2021**

**(Via Videoconference)**

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

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

THE COMMISSIONER: Yes. Thank you, Madam Registrar. Yes, Ms. Rose.

MS. ROSE: Thank you, Mr. Commissioner.

Mr. Commissioner, before we get into the evidence of the witnesses today, as a matter of housekeeping, there is a document to be entered as an exhibit. Madam Registrar, if you could please pull up the affidavit of Adam Ross made March 9th, 2021. So for context, Mr. Commissioner, this affidavit appends at exhibit B a report that was originally circulated to participants on February 9th as a draft overview report but which upon hearing feedback from participants, we have determined ought to be presented as a report of its author, which is Mr. Adam Ross. And so just so that you are aware, Mr. Commissioner, participants have had an opportunity to alert us if they consider it necessary to cross-examine Mr. Ross on the report. And just as a reminder to participants,

1 the deadline for alerting us of that request is  
2 Friday, March 19th. And so with that,  
3 Mr. Commissioner, I would ask that this  
4 affidavit be entered as exhibit 729, I believe.

5 THE COMMISSIONER: All right. 729. Thank you.

6 THE REGISTRAR: Exhibit 729.

7 **EXHIBIT 729: Affidavit of Adam Ross made on**  
8 **March 9, 2021**

9 MS. ROSE: Thank you. Madam Registrar, I have no  
10 further need of this document.

11 So, Mr. Commissioner, my friend Mr. Davis  
12 has already canvassed the backgrounds of the  
13 witnesses you will hear from in this panel this  
14 morning. You will also be hearing from a panel  
15 later in the day that will be led by Ms. Patel,  
16 but without further ado I'll turn it over to  
17 Madam Registrar to swear in the witnesses that  
18 you have before you, which are members of a  
19 FINTRAC panel.

20 THE COMMISSIONER: Yes, thank you.

21 THE REGISTRAR: Would each of you please state your  
22 full name and spell your first name and last  
23 name for the record. Let's start with  
24 Ms. Achimov.

25 THE WITNESS: (DA) Good morning. Hello. Donna

Donna Achimov (for the commission)  
Barry MacKillop (for the commission)  
Annette Ryan (for the commission)  
Exam by Ms. Rose

1 Achimov, D-o-n-n-a A-c-h-i-m-o-v.

2 THE REGISTRAR: Thank you. Mr. MacKillop.

3 THE WITNESS: (BM) Barry MacKillop, B-a-r-r-y  
4 M-a-c-K-i-l-l-o-p.

5 THE REGISTRAR: Thank you. Ms. Ryan.

6 THE WITNESS: (AR) Annette Ryan, A-n-n-e-t-t-e  
7 R-y-a-n.

8 THE REGISTRAR: Thank you.

9 DONNA ACHIMOV, a witness  
10 called for the  
11 commission, affirmed.  
12 BARRY MACKILLOP, a  
13 witness called for the  
14 commission, affirmed.  
15 ANNETTE RYAN, a witness  
16 called for the  
17 commission, affirmed.

18 THE REGISTRAR: Thank you.

19 THE COMMISSIONER: Yes, Ms. Rose. Thank you.

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

21 **EXAMINATION BY MS. ROSE:**

22 Q And I've just been alerted there's some trouble  
23 with my audio, so I'll try to continue and I'm  
24 sure that our staff person will let us know if  
25 there's a need to address that further.

Donna Achimov (for the commission)  
Barry MacKillop (for the commission)  
Annette Ryan (for the commission)  
Exam by Ms. Rose

4

1                   As I was saying, Mr. Commissioner, my  
2                   friend Mr. Davis has already canvassed the  
3                   backgrounds of these witnesses in detail on  
4                   January 18th, 2021, so I propose to dispense  
5                   with any further review of their backgrounds  
6                   other than to have their CVs entered as  
7                   exhibits.

8                   THE COMMISSIONER: Were they previously entered,  
9                   Ms. Rose?

10                  MS. ROSE: They were not, Mr. Commissioner.

11                  THE COMMISSIONER: Okay.

12                  MS. ROSE: So, Madam Registrar, if we could begin  
13                  with the CV of Ms. Achimov.

14                  THE REGISTRAR: Yes. Do you need me to display it on  
15                  the screen?

16                  MS. ROSE: Yes, please, thank you.

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

19                  A     (DA) Yes, I do.

20                  MS. ROSE: All right. Mr. Commissioner, I would ask  
21                  that we have this be entered as exhibit 730.

22                  THE COMMISSIONER: Very well.

23                  THE REGISTRAR: Exhibit 730.

24                  **EXHIBIT 730: Curriculum Vitae of Donna Achimov**

25                  MS. ROSE: Madam Registrar, if we could please have

Donna Achimov (for the commission)  
Barry MacKillop (for the commission)  
Annette Ryan (for the commission)  
Exam by Ms. Rose

5

1 the CV of Mr. MacKillop.

2 Q Mr. MacKillop, do you recognize this document as  
3 being your CV?

4 A (BM) I do.

5 MS. ROSE: Thank you. Mr. Commissioner, if we could  
6 please have that marked as exhibit 731.

7 THE COMMISSIONER: Very well. 731.

8 THE REGISTRAR: 731.

9 **EXHIBIT 731: Curriculum Vitae of Barry**

10 **MacKillop**

11 MS. ROSE: And, Madam Registrar, if we could have the  
12 CV of Ms. Ryan now, please.

13 Q Ms. Ryan, do you recognize this document as  
14 being your CV?

15 A (AR) I do.

16 MS. ROSE: All right. Mr. Commissioner, I believe  
17 we're at 732, please.

18 THE COMMISSIONER: Yes, 732, thank you.

19 THE REGISTRAR: Exhibit 732.

20 **EXHIBIT 732: Curriculum Vitae of Annette Ryan**

21 MS. ROSE: All right. Madam Registrar, I have no  
22 further need of these documents. Thank you.

23 Q So just as a precursor to the evidence today, I  
24 will say that we have quite a lot of material to  
25 cover today and in particular quite a lot of



1 documents to review, so to each of the witnesses  
2 today, if I'm being a little abrupt or asking  
3 for an initial response, please don't worry, I  
4 will give you an opportunity to comment, but on  
5 some occasions I will ask you to give a brief  
6 answer and then we'll give you an opportunity to  
7 comment further on that at a later point. So if  
8 you're wondering why I'm being a little abrupt,  
9 that's why. As I did say, Mr. Commissioner, we  
10 are hearing from a panel of the LTSA later this  
11 afternoon or later this morning.

12 I'll proceed today in a series of topic  
13 areas, the first being intelligence at FINTRAC,  
14 the second being outreach and engagement efforts  
15 by FINTRAC, the third being compliance by the  
16 real estate sector with FINTRAC requirements, a  
17 brief comment on administrative monetary  
18 penalties and reporting figures by the real  
19 estate sector, and closing with opportunities  
20 for data sharing and collaboration with  
21 industry.

22 So hopefully each of you will be familiar  
23 with which one of those topic areas pertains to  
24 your expertise. So I believe we're starting  
25 with you, Mr. MacKillop, you're a director of

1 intelligence at FINTRAC; is that right?

2 A (BM) Tactical intelligence, yes.

3 Q Okay. And from a FINTRAC intelligence  
4 perspective, Mr. MacKillop, does it seem to you  
5 that reporting entities in the BC real estate  
6 sector continue to lack an understanding of what  
7 constitutes a suspicious transaction?

8 A (BM) I think that there's a constant need for  
9 ongoing awareness and education, yes. Some of  
10 the transactions that are deemed to be  
11 suspicious are challenging at times to identify  
12 and the role they play is challenging so we've  
13 done and we continue to do a significant amount  
14 of outreach awareness and education. I would  
15 say that the Suspicious Transaction Reports are  
16 getting better. They are improving as our  
17 efforts are paying off in the sector.

18 Q Okay. In a document that has been marked  
19 exhibit 448, which is the report to the minister  
20 on compliance-related issues, and I believe this  
21 one is dated in September 2018, there's a  
22 statement that the real estate sector in BC  
23 seems to lack an understanding of what  
24 constitutes a suspicious transaction. Are you  
25 familiar with that statement?

1           A       (BM) I'm familiar with the statement and I would  
2                    agree that generally speaking given the number  
3                    of people that work in that sector, I wouldn't  
4                    say that the understanding is deep and profound,  
5                    but I think that we're continuing to work with  
6                    them to raise that level of awareness and that  
7                    understanding.

8           Q       Okay. And I believe this is a question for  
9                    Ms. Ryan. Ms. Ryan, you're familiar with the  
10                   statement in the 2016 operational brief on  
11                   indicators of suspicion in the real estate  
12                   industry that what is required of reporting  
13                   entities is to consider the facts related to a  
14                   transaction in its context that can when taken  
15                   together stand out as unusual. Are you familiar  
16                   with that statement?

17          A       (AR) Yes.

18          Q       Okay. I'm not sure if this is a question for  
19                    Mr. MacKillop or Ms. Ryan. Do you know which of  
20                    the 39 indicators that are set out in the 2016  
21                    operational brief or that are presented in the  
22                    refinement of those indicators in 2019 are  
23                    unusual in the Vancouver residential real estate  
24                    market?

25          A       (AR) I would answer that to say that they are

1                   all meant to be indicative of what the reporting  
2                   entities should be aware of and they're meant to  
3                   give suggestions of what they could look at.  
4                   You know, they're neither exhaustive nor  
5                   exclusive, so, you know, the intent is to flag  
6                   what they should be looking for as professionals  
7                   that's outside of the normal realm of what one  
8                   might expect in such transactions, and so  
9                   they're meant to be helpful. Their based on  
10                  consultation both with industry as well as any  
11                  number of internal FINTRAC partners, other  
12                  government partners, other international  
13                  partners. So to take one indicator and say it  
14                  doesn't apply in a given market is not something  
15                  that we've done in particular, I would say.

16                  Q    Okay. And despite my desire for haste, I think  
17                      it would be appropriate to just pause here and  
18                      have Madam Registrar pull up the indicators, if  
19                      possible. So, Madam Registrar, these are  
20                      presented at appendix 6 of exhibit 601. And  
21                      perhaps while she's doing that, as it's a very  
22                      large document she'll have to navigate through.  
23                      Ms. Ryan are you aware that industry members say  
24                      that many of the indicators in the 2016 and 2019  
25                      FINTRAC publications such as transaction speed

1                   or a client's interest in a particular property  
2                   absent concern of price, are commonplace in  
3                   markets like Vancouver?

4           A       (AR) I think that's a reasonable statement.

5           Q       And other than the comment that I previously  
6                   raised with respect to considering whether a  
7                   transaction as a whole stands out as unusual,  
8                   what guidance has FINTRAC given to BC real  
9                   estate agents and notaries and other reporting  
10                  entities in the real estate sector on how to  
11                  reconcile the presence of indicators that are  
12                  listed in these documents as suspicious but are  
13                  also commonplace in the market? And I  
14                  appreciate that was a very long question, so if  
15                  you need me to break it up into pieces, I'm  
16                  happy to do so.

17          A       (AR) No, that's fine. I mean, I understand the  
18                  question and I understand its intent. I would  
19                  say that the direction is the focus on  
20                  transactions where there's not an obvious  
21                  [indiscernible] for those factors. So to the  
22                  extent that a seller's market might be prone to  
23                  such considerations, and that's explainable.  
24                  And I think that the ensemble of documents as  
25                  well as the multiple steps of outreach and

1                   consultation and education that is done by our  
2                   compliance colleagues look to break that down in  
3                   terms of what is outside of the norm and would  
4                   therefore be more akin to suspicion.

5                   Q     And I see Madam Registrar has now pulled up the  
6                   appendix. Madam Registrar, if we could scroll  
7                   down to the chart that is a couple pages into  
8                   the document. Here we are. This is the  
9                   beginning of the chart. If we could just scroll  
10                  down to that table.

11                                 This is the table of indicators, and  
12                   Ms. Ryan, you understood when I was referring to  
13                   the 2016 operational brief indicators, this is  
14                   that list? Okay. So just to put a finer point  
15                   on it, in a situation where a reporting entity  
16                   is conducting a transaction which exhibits  
17                   several of the features listed in this chart as  
18                   indicators of suspicion but which they consider  
19                   to be commonplace or typical of the market, is  
20                   the guidance from FINTRAC to issue a suspicious  
21                   transaction report?

22                   A     (AR) I'll defer to my colleague Donna on the  
23                   specifics of the guidance. I can speak to the  
24                   nature of the work that's presented here in  
25                   terms of how we develop the indicators that,

1 taken together, can indicate suspicion. No one  
2 indicator itself should be viewed as a sole  
3 marker of what constitutes suspicion. And as  
4 I've said earlier, the understanding of context  
5 is always important.

6 Q Yes, and so as I've said, I will attempt to  
7 address questions to the right person, but your  
8 familiarity of course is much superior to mine.  
9 So please do feel free to indicate if one of  
10 your colleagues is better placed to respond.  
11 I'll turn the floor over to you, Ms. Achimov, to  
12 answer the question I've just posed and please  
13 let me know if you would like me to repeat it.

14 A (DA). No, thank you very much. Further to what  
15 my colleague said you have to take into context  
16 the transaction and where the transaction is  
17 taking place, a particular market. Knowing the  
18 environment, is, you know, in terms of what is  
19 regular or normal and what isn't. And sometimes  
20 one of these indicators is sufficient, other  
21 times it's a combination of them. So really the  
22 context plays a huge, huge factor in using the  
23 kind of judgment to be able to come up with  
24 reasonable grounds to suspect. And that's all  
25 we're asking is that there are a number of

1 indicators, if there is a trigger that there is  
2 some reasonableness associated with the  
3 suspicion and then obviously submitting a  
4 Suspicious Transaction Report.

5 MS. ROSE: Okay. Madam Registrar, I have no further  
6 need of this document. Thank you. But I will  
7 ask you to pull up the annual report of FINTRAC.

8 Q And I have a question for you, Mr. MacKillop,  
9 about some of the content of this report. And  
10 I'll find you the page reference if necessary,  
11 but first are you familiar with this document?

12 A (BM) I am.

13 Q And what is this document?

14 A (BM) It's our annual report that's published by  
15 the agency.

16 MS. ROSE: Okay. Thank you. I'd ask that this be  
17 marked as next exhibit, please.

18 THE COMMISSIONER: Very well.

19 THE REGISTRAR: Exhibit 733, Mr. Commissioner.

20 **EXHIBIT 733: FINTRAC Annual Report -**  
21 **November 17, 2020**

22 MS. ROSE:

23 Q And, Mr. MacKillop, are you familiar with the  
24 statistics in this report that 30 percent of  
25 predicate offences related to information



1 disclosure relate to fraud and 31 percent relate  
2 to drug-related offences?

3 A (BM) That's correct.

4 Q Okay. I think we have -- I dispense with this  
5 document here, Madam Registrar, and I'll turn to  
6 CAN-001332. I'm keeping Madam Registrar on her  
7 toes today. Thank you.

8 Mr. MacKillop, are you familiar with this  
9 document?

10 A (BM) I am.

11 Q Okay. And is this -- just tell us, please, what  
12 this document is.

13 A (BM) It is a report on mortgage fraud that would  
14 have been created here, I believe, under our  
15 strategic intelligence sector.

16 MS. ROSE: Okay. And if we scroll down to page 3,  
17 Madam Registrar, please.

18 Q Mr. MacKillop, are you aware that this was  
19 produced as part of an access to information and  
20 privacy release package?

21 A (BM) I am.

22 Q Okay. Do you see underneath the heading  
23 "Mortgage Fraud" on this page and in the first  
24 line in that paragraph there's the statement  
25 that "90 percent of all mortgage fraud schemes

1                   in Canada are purpose traded by OCGs"? Do you  
2                   see that there?

3           A       (BM) I see that.

4           Q       And what are OCGs?

5           A       (BM) Organized crime groups.

6           Q       Okay. And I believe that this document is a bit  
7                   dated. Do you have any reason to think that  
8                   this statement is no longer true?

9           A       (BM) I have no reason. However, I would point  
10                   out that these statistics and those statements  
11                   are from the criminal intelligence service  
12                   Canada reports and not from FINTRAC.

13          Q       Okay. But in intelligence you've reviewed, does  
14                   this figure of 90 percent seem significantly off  
15                   base to you?

16          A       (BM) No, not significantly.

17          MS. ROSE: Okay. Mr. Commissioner, I'd ask that we  
18                   have this document be entered as exhibit 734.

19          THE COMMISSIONER: Yes, very well.

20          THE REGISTRAR: Exhibit 734.

21                   **EXHIBIT 734: Unredacted Release Package: ATIP**  
22                   **2015-00129**

23          MS. ROSE: Okay. And, Madam Registrar, if we could  
24                   turn to CAN-001165.

25          Q       Mr. MacKillop, are you familiar with this

1 document?

2 A (BM) I am.

3 Q Okay. And what is this document?

4 A (BM) This is a document that was prepared by  
5 Grant Thornton for our compliance sector several  
6 years ago to get an overview of the various  
7 reporting sectors that are required to report  
8 under the *PCMLTFA* to FINTRAC.

9 Q And that's dated March 31st, 2014, is it?

10 A (BM) That's correct.

11 Q Okay. So there are two statements in this  
12 report that I'd like to ask you about, and  
13 please let me know if I should take you to the  
14 page, but I'll try you with just the statement  
15 and see how we do. So the first statement is:

16 "At the smaller end of the real estate  
17 market there is often no quality and  
18 ethics infrastructure in place."

19 And the second statement is that:

20 "The real estate sector is ranked as a  
21 higher risk as it is unengaged in AML  
22 compliance and other sectors are not  
23 applying higher scrutiny to these  
24 transactions."

25 Are you familiar with those statements?

1           A       (BM) I'm familiar with those. Those are  
2                    statements and qualifications made by the author  
3                    of the report Grant Thornton.

4           Q       Okay. We note this date is about seven years or  
5                    this report is seven years old now. Are you  
6                    aware of any further work that would suggest the  
7                    situation in respect of those two statements has  
8                    changed?

9           A       (BM) I would suspect, and I will defer to my  
10                   colleague Ms. Achimov, but I would suspect that  
11                   the amount of outreach, awareness, education and  
12                   guidance that has been provided to the real  
13                   estate sector since 2014 would in fact lead to a  
14                   different conclusion by Grant Thornton were they  
15                   to repeat the exercise.

16          Q       Okay. Ms. Achimov, are you aware of any work  
17                   that has been done to assess the quality or the  
18                   risk of the real estate reporting entities that  
19                   is similar to this Grant Thornton work that  
20                   would suggest that these two statements are no  
21                   longer true?

22          A       (DA) Well, the statements are dated. The anchor  
23                   to some of this work is the national inherent  
24                   risk assessment that was published in 2015 and  
25                   that identified real estate in general as well

1 as residential as a higher probability in terms  
2 of money laundering and that really has been a  
3 seminal piece of work that's allowed us to look  
4 at our risk assess in and do our outreach in  
5 very targeted ways to address those concerns.

6 Q And so I take it that FINTRAC has done a fair  
7 bit of work to address those concerns, but are  
8 you aware of any assessment having been done to  
9 determine whether that work is having the effect  
10 of changing those two statements that I referred  
11 you to?

12 A (DA) Well, we look at on an annual basis what  
13 our compliance levels are. We continue to do  
14 outreach. Every time we do an exam we aggregate  
15 and we look to see if there are trends. When we  
16 do see trends we develop very particular  
17 guidance to address some of the trends. We work  
18 with various national and provincial regulators  
19 and real estate associations in terms of  
20 communicating those trends. That's our  
21 ecosystem on the compliance side, is constantly  
22 monitoring trends, looking at areas where we  
23 have gaps in reporting, developing the necessary  
24 response and doing the outreach and education.

25 Q Okay. So in that work have you found research

1                   or analysis or has your team concluded that  
2                   these two statements -- and I'll just repeat  
3                   them, first being that there is no quality and  
4                   ethics infrastructure in place at the smaller  
5                   end of the real estate market and secondarily  
6                   that real estate is a high risk because portions  
7                   of the sector are unengaged with AML and there  
8                   is no additional scrutiny being applied by other  
9                   sectors. Are you aware of analysis or -- that  
10                  would change -- that would lead you conclude  
11                  those two statements are not true?

12                A       (DA) I'm aware in general. Obviously smaller  
13                  entities don't have the infrastructure, and  
14                  that's part and parcel of why we put a great  
15                  deal of effort in terms of providing the  
16                  necessary guidance, providing examples in terms  
17                  of best practices so smaller organizations  
18                  actually can improve. And one of our recent  
19                  activities we piloted last fall, a welcome  
20                  letter specifically addressing the issue of the  
21                  gaps and the capacity and smaller reporting  
22                  entities, so the individual agents. So the  
23                  welcome letter actually spells out very clearly  
24                  what it is you need to do from the moment you  
25                  become a real estate agent in terms of your

1 reporting obligations, suspicious transactions,  
2 we follow up with phone calls and we provide  
3 access on the web.

4 In general we know that this sector has  
5 been lacking the awareness of how money  
6 laundering and terrorist financing relates to  
7 them. For the longest period of time it was  
8 believed that banks and other financial  
9 institutions who deal with the money aspects  
10 were and should be involved. And we've spent a  
11 lot of effort and energy trying to indicate that  
12 certainly individual agents play a key role and  
13 they do have obligations.

14 Q So I hear you describing the significant  
15 efforts, and I'm sure those are quite labour  
16 intensive that FINTRAC has performed. I am just  
17 wondering, though, if you can answer my question  
18 on whether or not the situation on the ground  
19 has changed since 2014?

20 A (DA) I think it's changed. It certainly has  
21 improved. I mean, we're seeing the direct  
22 result of our collaboration with the national  
23 real estate -- CREA, real estate association as  
24 well as RECBC, so we have a great deal of  
25 interaction. We're playing very active roles in

1 reviewing training material, providing input  
2 into risk assessment forms, providing guidance.  
3 We've been very, very active in terms of  
4 providing information on our website as well as  
5 responding to phone calls. So we're doing a  
6 great deal of work. And obviously it's a sector  
7 that's constantly evolving with new members  
8 joining and it's a transient sector. So no  
9 imprints come in and it's the constant education  
10 and it's a little bit of hand holding at the  
11 start, and we're seeing that that is paying  
12 dividends for us.

13 Q And when you say seeing this is paying  
14 dividends, what literature or what proof do you  
15 have of the dividends?

16 A (DA) Well, we're looking at the increase in  
17 our -- over time our suspicious transaction  
18 reporting. We're obviously seeing exam results  
19 in terms of where deficiencies are improving  
20 after we've done targeted outreach. We are  
21 seeing trends not just in BC but across the  
22 country in terms of where there are areas that  
23 have improved and we continue to focus on those  
24 areas.

25 Q I noticed, Mr. MacKillop, you unmuted there, and



1 I just wondered if you had anything to add.

2 A (BM) No. I was just going to re-enforce the  
3 work we've been doing with RECBC, with CREA,  
4 with the various associations. I think the  
5 registration of real estate agents as well has  
6 gone a long way towards licensing them within  
7 the different provinces. When you talked about  
8 ethics and oversight, I think things have  
9 changed in that sense. I think real estate  
10 itself will always be a method of laundering  
11 funds. It always has been, always will be  
12 because people want to buy real estate for  
13 various reasons, whether it's companies, whether  
14 it's parking lots, whether it's houses, but I  
15 think that the work that's been done and the  
16 recognition by in particular some of the local  
17 and provincial associations and work they've  
18 done with us have in fact increased the  
19 oversight, increased the ethics and the role  
20 that they all play in the regime, and I think  
21 it's just going to re-enforce that as part of  
22 the comments that my colleague made.

23 MS. ROSE: Okay. Mr. Commissioner, could we please  
24 have this document marked as exhibit 735.

25 THE COMMISSIONER: Yes, very well. 735.

1 THE REGISTRAR: 735.

2 **EXHIBIT 735: Reporting Entity Sector Profiles**  
3 **Money laundering and terrorist financing**  
4 **vulnerability assessments - Mar 31, 2014**

5 MS. ROSE: Thank you, Madam Registrar. And, Madam  
6 Registrar, if I could ask you to now pull up  
7 exhibit 628, please.

8 Q And I think these questions will be for  
9 Mr. MacKillop on the whole, so I'll ask you  
10 about this document. Do you recognize this  
11 document?

12 A (BM) I do.

13 Q Okay. And could you describe to the  
14 Commissioner what this is?

15 A (BM) It appears to be a memorandum that was  
16 written from our strategic intelligence side  
17 relating to money laundering in real estate in  
18 BC.

19 Q Okay. And are you aware -- I'll just refer you  
20 to the top right-hand corner of this document.  
21 Do you see the little stamp there?

22 A (BM) I do.

23 Q Okay. And what does that tell you?

24 A (BM) The security classification or the fact  
25 that it was released under access to

1 information?

2 Q The access to information is the stamp that I  
3 was looking at.

4 A (BM) It was released under access to  
5 information.

6 MS. ROSE: Okay. And I think if we go -- oh, I'm  
7 sorry, Madam Registrar, I think you have the  
8 wrong document up here. I see this is being  
9 CAN-001170, but I'm actually looking for  
10 exhibit 628, and I understand where the  
11 confusion arises because I believe this CAN-1170  
12 represents a portion of exhibit 628 but not the  
13 entirety of it. So I'll just ask you to pull up  
14 628, please.

15 THE REGISTRAR: Sorry about that. I will get that  
16 right away.

17 MS. ROSE: No trouble.

18 Q Perhaps as she's doing that Mr. MacKillop,  
19 you're familiar with the access to information  
20 and privacy disclosure process?

21 A (BM) I am, generally.

22 Q And when a request is made sometimes the release  
23 package includes several documents lumped  
24 together?

25 A (BM) Correct.

1           Q     Okay.  And so I think -- I'm not sure if you can  
2                   confirm whether that is the case on this  
3                   document.  Perhaps if you would like, Madam  
4                   Registrar, to scroll through the document  
5                   quickly to demonstrate to you that that's the  
6                   case, but I'm not sure if you're able to speak  
7                   to that.

8           A     (BM) I believe there were more than one document  
9                   in this package, correct.

10          Q     Okay.  Thank you for that.  It's a bit of an  
11                awkward thing to do with a document on the  
12                screen like this.

13                         And so, Madam Registrar, I would ask you to  
14                         turn to page 39 of this document.  And I have  
15                         two questions for Mr. Achimov with respect to  
16                         this page.  Okay.  So Ms. Achimov, do you see  
17                         that in the middle of this page there is a  
18                         reference to administrative monetary penalties?

19          A     (DA) Yes, I'm just trying to find it in my hard  
20                copy.  I've got it now.  Thank you.

21          Q     Yes, you have the benefit of having hard copies.  
22                It's probably a bit more nimble than what I  
23                have.

24          A     (DA) Exactly.  So yes, I do.

25          Q     Okay.  Do you see a dollar figure with respect

1 to administrative monetary penalties there?

2 A (DA) Yes, I do.

3 Q What's that dollar figure?

4 A (DA) \$66,480.

5 Q And that's as of November 2014; is that right?

6 A (DA) Yes, I believe so.

7 Q Okay. And I just want you to make a note of  
8 that because I will have some questions for you  
9 regarding AMPs later today.

10 A (DA) Okay.

11 Q And then at the bottom of this page,  
12 Mr. Achimov, do you see the statement that  
13 begins with "since 2002"?

14 A (DA) Yes.

15 Q Okay. And the full statement is "since 2002 the  
16 real estate sector has provided less than 1  
17 percent of all reports" received by FINTRAC. Do  
18 you see that there?

19 A (DA) Yes, I do.

20 Q And it appears that the date of this report is  
21 sometime in 2015; is that right? Perhaps we can  
22 scroll up a couple of pages.

23 A (DA) Yes, February 2015, that's correct.

24 Q Thank you. Is that still true today that the  
25 real estate reports submitted to FINTRAC

1                   represent less than 1 percent of the reports  
2                   received by FINTRAC?

3           A       (DA) No. I think -- I think we're slightly  
4                   higher than that.

5           Q       Okay. That's the questions I have for you on  
6                   that page, Ms. Achimov. Thank you.

7                   Madam Registrar, if we could turn to  
8                   page 44. I think this turns over to your  
9                   expertise Mr. MacKillop. So Madam Registrar, if  
10                  we could zoom in on the non-redacted portion of  
11                  this page, please.

12                  Mr. MacKillop, in the middle of this  
13                  paragraph do you see the statement that begins  
14                  with "as a related issue"? Do you see that  
15                  there?

16          A       (BM) I do.

17          Q       And the full statement is:

18                  "As a related issue, there have been  
19                  allegations that the BC real estate market  
20                  is being fuelled by capital flight,  
21                  particularly from China, and that some  
22                  portion of this foreign capital may in  
23                  fact be proceeds of foreign crime that's  
24                  being laundered through the BC real estate  
25                  sector."

1 Do you see that there?

2 A (BM) I do.

3 Q Mr. MacKillop, are you aware of the attention  
4 that has been paid to the issue of foreign  
5 investment in real estate in BC?

6 A (BM) By whom?

7 Q Are you aware of public attention, media reports  
8 and other public discourse with respect to  
9 foreign investment in real estate in BC?

10 A (BM) Yes.

11 Q And are you aware that some of this discourse  
12 included concerns about potentially unfairly  
13 discriminating against real estate buyers who  
14 are Chinese nationals?

15 A (BM) I am.

16 MS. ROSE: Okay. Madam Registrar, if we could turn  
17 to page 51, please. And I believe the section  
18 is at the bottom there. Thank you. You've  
19 anticipated my desire to zoom in, I appreciate  
20 that, Madam Registrar, thank you.

21 Q So, Mr. MacKillop, do you see there there's a  
22 "Prot. A," and I'm not sure what that refers to,  
23 but the following statement is:

24 "Examples of real estate money laundering  
25 involving proceeds of Chinese corruption

1                                   are observable."

2                                   Do you see that statement there?

3                   A       (BM) I do see that, yes.

4                   Q       And is that statement still true today?

5                   A       (BM) Yes, I would assume that that statement is  
6                                   still true today.

7                   MS. ROSE:   Okay.  Madam Registrar, could we please  
8                                   turn to page 56 of this document.  Perhaps we  
9                                   could zoom in on that paragraph at the top  
10                                  there.  Yes.  Thank you.

11                  Q       So I see here -- first of all, this document is  
12                                  dated January 2017; is that right?

13                  A       (BM) Correct.

14                  Q       And that follows the 2016 publication of the  
15                                  operational brief that we discussed earlier this  
16                                  morning?

17                  A       (BM) Correct.

18                  Q       And so this statement here that FINTRAC has  
19                                  produced an operational brief on indicators of  
20                                  money laundering, do you take that to be the  
21                                  document that we had pulled up earlier today  
22                                  with a chart of indicators?

23                  A       (BM) I do.

24                  Q       Okay.  And then do you see the statement that is  
25                                  sort of, I believe, two sentences from the end



1                   of this paragraph, in the middle there that  
2                   begins with "this can assist public and private  
3                   sector actors"?

4           A       (BM) I see that.

5           Q       And the full statement is:

6                   "This can assist public and private sector  
7                   actors in distinguishing between ML  
8                   relevant and non-ML relevant."

9                   When you see the phrase "ML relevant and non-ML  
10                  relevant," what does the ML refer to there?

11          A       (BM) Money laundering.

12          Q       And so I'll just continue on with that  
13                  statement:

14                  "ML relevant Chinese inflows and real  
15                  estate-related activity."

16                  Do you see that statement?

17          A       (BM) I see that.

18          Q       And then that continues on to say:

19                  "Further guidance is necessary for  
20                  reporting entities, to assist them in  
21                  managing their risk related to transaction  
22                  emanating from China and Hong Kong."

23                  Do you see that?

24          A       (BM) I do.

25          Q       And this is a document that's produced from the

1 intelligence sector, which is currently under  
2 your supervision?

3 A (BM) No, that's incorrect. It's produced by my  
4 colleague Ms. Ryan.

5 Q Oh, my apologies. Perhaps these questions ought  
6 to be directed to Ms. Ryan, then.

7 So, Ms. Ryan, in your work in the research  
8 department, are you preparing the reports that  
9 are both internal and external?

10 A (AR) Correct.

11 Q Okay. And this report was prepared by the  
12 department that is currently under your  
13 supervision, though I take it it was not under  
14 your supervision at the time this was drafted?

15 A (AR) Correct and correct. There is a lot of  
16 ability to with the tactical intel group in  
17 developing strategic intel, so Mr. MacKillop's  
18 sector is responsible for tactical intelligence  
19 as it's aggregated and turned into patterns and  
20 trends. That's essentially the point at which  
21 it becomes strategic intelligence.

22 Q Okay. And so which category does this report  
23 fall into, tactical or strategic?

24 A (AR) I will say strategic.

25 Q Okay. And so this statement here, "further

1 guidance is necessary for reporting entities, to  
2 assist them in managing their risk related to  
3 transaction emanating from China and Hong Kong,"  
4 that would be a suggestion from the strategic  
5 intelligence group; is that right?

6 A (AR) Yes.

7 Q Okay. And, Ms. Ryan, has there been any further  
8 guidance to reporting entities on the specific  
9 topic since January 2017?

10 A (AR) There was further guidance provided to  
11 reporting entities in respect of real estate in  
12 early 2019. There was an operational alert in  
13 respect of laundering proceeds of crime through  
14 casino related underground banking schemes in  
15 December of 2019. There was an operational  
16 alert in July 18th of 2018 in respect of  
17 professional money laundering through trade and  
18 money service businesses. I do apologize that I  
19 can't see the time stamp of this document given  
20 our screens, but ...

21 MS. ROSE: If you scroll up, Madam Registrar.

22 Q Can you see it now, Ms. Ryan?

23 A (AR) Yes, so the three documents that I just  
24 spoke to would have been produced after this  
25 document was produced. All three would have

1                   been public facing.

2           Q       And do any of those three reports refer  
3                   specifically to Chinese and Hong Kong inflows in  
4                   respect of real estate-related activity?

5           A       (AR) Yes. The operational alert dated  
6                   July 18th, 2018, titled "Professional Money  
7                   Laundering Through Trade and Money Service  
8                   Businesses" speaks on several occasions, I count  
9                   at least five times that it references China.

10          Q       Okay. And that's professional money laundering  
11                   services. Is there a portion of that report  
12                   that refers to real estate?

13          A       (AR) I would have to reread it as to whether it  
14                   references to real estate.

15          Q       And I'm sorry, I'm just trying to recall if we  
16                   have that document in evidence, and I'm not sure  
17                   one way or the other, I'm afraid. But perhaps I  
18                   can ask you another question.

19                   How are these operational alerts  
20                   distributed or communicated to real estate  
21                   reporting entities?

22          A       (AR) So we publish and promote our products  
23                   through a number of channels. I would say that  
24                   it includes publication on our website for which  
25                   we have an RSS feed that flags to people that

1 subscribe that we've published new documents.  
2 Our reporting entities are encouraged to  
3 subscribe to that RSS feed. We are increasingly  
4 active on Twitter and those would be the two  
5 principal channels that I would think of right  
6 now. There may be other channels.

7 Donna?

8 (DA) Yes, if I may. We are also very active  
9 with real estate associations. We do a great  
10 deal of outreach conferences and educational  
11 fora, and again, any time there is something new  
12 that we feel is relevant to a particular sector,  
13 we actually insert into our presentations and we  
14 offer that additional information. As well, our  
15 regional compliance officers as they're doing  
16 assessments and as they do their exit  
17 interviews, that's part and parcel of closing  
18 off and doing some additional education and  
19 ensuring that the latest information is shared.

20 Q Okay. And I'll -- I'm going to ask you a  
21 question, Ms. Achimov, but perhaps while I do  
22 that, Ms. Ryan, if you could seek to confirm  
23 whether the operational alert that you  
24 referenced in 2018 whether that does include a  
25 reference to real estate?

1           A       (AR) I will.

2           Q       So, Ms. Achimov, in the outreach that's  
3                    connected to real estate reporting in the  
4                    context of these engagement events or in the  
5                    context of examinations and so on, is there  
6                    attention drawn to specific operational alerts  
7                    like the ones that Ms. Ryan mentioned?

8           A       (DA) Yes, there is. Especially if there is a  
9                    particular geographic risk.

10          Q       And perhaps you could just expand on that, what  
11                    you mean by especially if there's a geographic  
12                    risk?

13          A       (DA) So in certain areas and in large -- when it  
14                    comes to real estate in large metropolitan areas  
15                    across the country, there are indicators in  
16                    terms of money laundering. And, again, some of  
17                    the pieces that we've just seen in the document  
18                    that was up, flipping transaction speed, not  
19                    questioning values of -- excessive values of  
20                    properties, those sorts of things, that would  
21                    be -- that would be characterized in terms of a  
22                    higher risk in a particular geographic area.

23          Q       Okay. Thank you. And, Ms. Ryan, I'm not sure  
24                    if you've had an opportunity to confirm that.  
25                    We don't need to do that now. We can return to

1                   that later.

2                   So I'm not sure if this is a question  
3                   for -- well, I don't know which of the three of  
4                   you it's best placed to. So I'll just perhaps  
5                   put it open for all of you. In your view would  
6                   it be of assistance to reporting entities to  
7                   have specific guidance on this topic to help  
8                   real estate reporting entities delineate between  
9                   a risky transaction with a connection to China  
10                  or Hong Kong and a non-risky one?

11                 A       (AR) Perhaps I'll answer first, if I may,  
12                   Ms. Rose, and leave it to my colleagues to jump  
13                   in.

14                  So in developing the three products that I  
15                  spoke to, but most specifically the document in  
16                  respect of indicators for the real estate  
17                  sector, we did have engagement with industry  
18                  through the working groups and through  
19                  correspondence.

20                  I would say that there is a -- there is  
21                  attention in the feedback that we receive from  
22                  industry in that, you know, as Donna said  
23                  earlier, it's a vast industry with a wide range  
24                  of members. And so the responses that we get  
25                  from industry have elements of we want very

1                   simple documents that can be -- you know, most  
2                   usable, and to the extent that we add  
3                   complexity, then we are, you know, risking  
4                   confusing some of the parts of industry. So  
5                   there is a range of views in the industry about  
6                   the extent to which members really want us to  
7                   focus on that which is most pertinent to the  
8                   parts of transactions and illicit networks that  
9                   might be seen directly by professionals in the  
10                  real estate industry. Yet others want to know,  
11                  you know, want to have bigger insight into what  
12                  is the wider pattern of illicit activity that,  
13                  you know, we are trying to provide information  
14                  on. And so to that end, we do produce these --  
15                  what we think of as complimentary documents that  
16                  inform both the wider pattern of the complexity  
17                  of illicit activity as well as a simpler basis  
18                  that could be used more practically by entities.

19                  I would compliment that by saying that we  
20                  are currently working on more risk-based  
21                  products that would be more informative by  
22                  sector or geography, and you know, certainly we  
23                  are alive to the feedback that there's -- you  
24                  know, there's an appetite for greater  
25                  granularity amongst some players, greater



1                    [indiscernible] among others, and we're trying  
2                    to fill that space.

3                    Q    Thank you, and I'll just allow either of the  
4                    other panel members to add to that if there's  
5                    anything they feel they want to contribute.

6                    A    (DA) No, I totally, I agree with my colleague  
7                    and for us it really is the geographic risk.  
8                    That's the criteria for assessment and different  
9                    areas have different risks, but obviously in the  
10                   future we're always open to looking at ways of  
11                   being sharper and improving that.

12                   MS. ROSE: Okay. If we could turn, Madam Registrar,  
13                   to page 58, please.

14                   Q    So I'm going to do my best again. I thought  
15                   this might be for Mr. MacKillop, but please  
16                   correct me if I'm wrong here. I'm wondering who  
17                   might recognize this slide show and if anyone  
18                   knows to whom the presentation was given. I'm  
19                   not hearing any response. Because of the topic  
20                   area that's stated on this slide I had thought  
21                   it might be related to strategic intelligence.  
22                   Mr. MacKillop, perhaps I'll just pick on you.  
23                   If you -- are you familiar with this document?  
24                   Do you recognize it?

25                   A    (BM) Yes, I've seen the document. I recognize

1                   the document. I don't believe it was a tactical  
2                   presentation, and I'm not sure because -- I'm  
3                   not sure who in fact this was presented to.  
4                   However I do recognize the document, yes.

5           MS. ROSE: Okay. And I'll just ask Madam Registrar  
6           if you could turn to the next page, please.

7           Q     So here I see on the third bullet there,  
8           Mr. MacKillop, the statement:

9                         "Indications of how higher risk 'upstream'  
10                        China-nexus financial activity intersects  
11                        with BC real estate."

12           Do you see that there?

13           A     (BM) I see that.

14           Q     And then there's two bullet points underneath  
15           that and the second of those -- or I'll just  
16           read through those. The first is "criminal cash  
17           pools potentially used for real estate," and  
18           second is "sanitized example - Interpol fugitive  
19           purchasing real estate in Canada." Do you see  
20           that?

21           A     (BM) I do.

22           Q     And are you able to tell us anything about this  
23           sanitized example?

24           A     (BM) It would have been essentially taking a  
25           disclosure that we would have made, a tactical

1 intelligence disclosure, and we would have  
2 sanitized it in terms of removing names,  
3 changing names, changing banks so people could  
4 not identify themselves for the entities  
5 involved, and we would have presented it as an  
6 example of money flows that we would have seen  
7 through our tactical disclosures.

8 Q And in reading the description there, are you  
9 familiar with the example that's being  
10 presented?

11 A (BM) I do not recall the example itself, no.  
12 That would have been many thousands of  
13 disclosures ago.

14 Q Okay. Are you able to tell us what is meant by  
15 "upstream China-nexus financial activity"?

16 A It would refer to activity that occurs in China,  
17 whether it's money that remains in China that's  
18 put into a separate bank account or a different  
19 bank account that is connected to somebody in  
20 Canada, for example, or it could be a reference  
21 to, depending on the situation, a reference to  
22 capital flight and how the money is moved from  
23 China to Canada, either legitimately or through  
24 a hawala or underground banking type system.  
25 And then the nexus would refer to whether or not

1                   we know if we have any intelligence on whether  
2                   or not the nexus -- the actual nexus in China is  
3                   linked to criminal activity or a legitimate  
4                   businessperson, for example.

5                   MS. ROSE: Okay. And sorry, Madam Registrar, I'll  
6                   just ask you to go back one page. Sorry, I  
7                   meant backwards. If we could just go -- yes. I  
8                   just wanted to date on this presentation.  
9                   That's October 2016.

10                  Q     Do you see that there, Mr. MacKillop?

11                  A     (BM) I do see that, yes.

12                  Q     Okay. Thank you. Madam Registrar, if we could  
13                       go down two pages now, please.

14                               So at page 60 of this information release  
15                               package, ATIP release package, there's this  
16                               slide with the statement:

17                                       "Analysis of Vancouver-focused STRs  
18                                       related to real estate and/or China-nexus  
19                                       issues was undertaken to determine the  
20                                       extent to which BC real estate purchases  
21                                       by foreign buyers represents a money  
22                                       laundering risk for Canada."

23                  Do you see that there, Mr. MacKillop?

24                  A     (BM) I do.

25                  Q     Are you aware of what analysis was done that is

1                   being referenced here? And perhaps you can tell  
2                   me whether that was something that was done  
3                   under your purview or Ms. Ryan's?

4           A        (BM) It would likely have been a combination as  
5                   Ms. Ryan indicated earlier. Certainly we would  
6                   have assisted on the tactical side in terms of  
7                   examining the STRs that have come in. Ms. Ryan  
8                   and our strategic intelligence laboratory would  
9                   have assisted in aggregating those to provide us  
10                  a bigger picture as opposed to looking into  
11                  individual STRs.

12          Q        Okay. So are you familiar with this particular  
13                   analysis that is being referenced here?

14          A        (BM) Generally, yes.

15          Q        Okay. And were the results of this analysis  
16                   specifically included in any operational brief,  
17                   Ms. Ryan?

18          A        (AR) I think that question is somewhat vague,  
19                   Ms. Rose. You know, if I could, the nature of  
20                   the work that we do is iterative. So we have  
21                   indicators that have been known and communicated  
22                   back to the start of the regime. You know,  
23                   there's work by the FATF and, you know,  
24                   essentially what we're doing all the time is  
25                   assessing the extent to which there, you know,

1 is -- are significant changes in patterns  
2 that -- you know, mirrored updating. So yes,  
3 we're always doing this type of work by multiple  
4 geographies, and multiple types of crime,  
5 multiple types of sectors.

6 Q So it appears to me from this statement alone  
7 that the analysis was undertaken in order to  
8 determine the extent to which this -- the  
9 purchases by foreign buyers represents a money  
10 laundering risk. And it's sort of it seems to  
11 me that it's discrete from an operational brief.  
12 Sorry, it seems to me it's discrete from the  
13 creation of a set of indicators, although it may  
14 inform the set of indicators. Is that a fair  
15 characterization of this work?

16 A (BM) I think it's -- sorry, go ahead. I think  
17 it is while it's discrete because it's used for  
18 a different purpose here, it would have been  
19 part and parcel of the development of any  
20 financial intelligence brief. It would have fed  
21 into any national inherent risk assessment for  
22 example. It would also play a role. It's the  
23 type of work that we would do in formulating  
24 guidance; it's the type of work we would do in  
25 identifying indicators. So it's all -- as

1                   Ms. Ryan indicated it's all a set of cumulative  
2                   work that we do and we do this -- it's always  
3                   important to analyze the STRs and the  
4                   transactions that we have in our database in  
5                   order to develop any material that we would like  
6                   to share with reporting entities or with law  
7                   enforcement.

8                   Q    Okay. Were the conclusions that were reached by  
9                   way of this analysis communicated to BC real  
10                  estate reporting entities?

11                 A    (BM) Again, I'm not sure to whom this  
12                   presentation was made, but I'm sure that the  
13                   results of it would have been formed part of the  
14                   guidance that was provided, the education, the  
15                   awareness and the outreach that was provided  
16                   following a presentation of this type. So we do  
17                   tend to reuse our material as much as possible,  
18                   especially when it's something that's useful for  
19                   various sectors. I would venture to guess that  
20                   it has in fact been shared, perhaps not in this  
21                   format, but the results of it would have been  
22                   shared and would have formed part of our  
23                   guidance, part of our education, part of our  
24                   outreach.

25                 Q    And so, Mr. MacKillop, you said there that you

1                   ventured a guess. So I just ask you not to  
2                   guess. Are you aware specifically of whether  
3                   the conclusions that were reached by this  
4                   analysis were communicated to BC real estate  
5                   reporting entities?

6           A       (BM) I cannot say 100 percent, no.

7           Q       Okay. And Ms. Ryan, are you aware of whether  
8                   the conclusions that were drawn from this  
9                   analysis were communicated to BC real estate  
10                  reporting entities?

11          A       (AR) This specific analysis would have been one  
12                  of the many, many pieces of information that we  
13                  would have used to update our different publicly  
14                  facing documents that would inform the sector as  
15                  well as other reporting entities.

16          Q       Right. So I take it that it's sort of internal  
17                  analysis that would inform your work going  
18                  forward with respect to operational briefs as  
19                  well as engaging with reporting entities by way  
20                  of the compliance function, but were the results  
21                  of this analysis in particular, before being  
22                  digested, if I can use that word, into the  
23                  products that we just referred to, were the  
24                  results communicated to -- and I have three  
25                  questions on this -- were they communicated to



1                   real estate reporting entities or industry  
2                   associations or regulators?

3           A        (AR) I would agree with the first part of your  
4                   statement, Ms. Rose, that this would have been  
5                   internal information that would have informed  
6                   those separate public facing documents that I  
7                   spoke to earlier.

8           Q        But the results would not have been directly  
9                   communicated?

10          A        (AR) I would think --

11          Q        Other than by way of those products?

12          A        (AR) Like many other pieces of internal  
13                   information, not everything goes to public  
14                   domain. So to that end, I would agree that this  
15                   particular internal document was not then  
16                   communicated to those members of the public.

17          Q        So can either of you say who outside of the  
18                   Canadian federal government the specific results  
19                   of this analysis were shared with?

20          A        (AR) With respect, we've spoken to the documents  
21                   that were shared publicly. This was not shared  
22                   publicly, but it informed those other documents.

23          Q        But when you use the word "publicly" are you  
24                   including in that any dissemination beyond the  
25                   Canadian federal government? So, for example,

1                    would you include in that dissemination to the  
2                    BC government, for example?

3                    A     (AR) You are asking a question that's outside of  
4                    my immediate ability to respond right now. I  
5                    don't know.

6                    Q     And I certainly am not asking you to comment on  
7                    areas that are beyond your knowledge, so if I'm  
8                    treading on that ground, please feel free to let  
9                    me know. But it sounds like neither of you are  
10                   aware of the results of this work that was  
11                   undertaken to determine the extent to which BC  
12                   real estate purchases by foreign buyers  
13                   represent a money laundering risk. Other than  
14                   the production of publicly facing reports,  
15                   you're not aware of this analysis or its results  
16                   having been shared with anyone outside of the  
17                   Canadian federal government?

18                   A     (BM) Again, I think it's not this particular  
19                   presentation that is of import; it's the actual  
20                   results would have formed the basis and informed  
21                   any documents that we would have shared  
22                   publicly. So to that end the results have been  
23                   shared, simply not in this particular context  
24                   with this particular document.

25                   Q     Okay. That's quite helpful. Can you confirm to

1                   me what the results of this analysis were? Does  
2                   real estate purchases by foreign buyers in BC --  
3                   and I see counsel for Canada is stepping in, so  
4                   I'll just ask you to pause there and perhaps  
5                   give her an opportunity to object. But are you  
6                   able to confirm whether or not this is a money  
7                   laundering [indiscernible]?

8                   MS. DAVIS: Thank you. And, Mr. Commissioner, Hanna  
9                   on behalf of Canada. I'll just interject. I  
10                  know Ms. Rose formulated her question a little  
11                  bit differently and in a general way at the end,  
12                  but to be clear, I think the witnesses have  
13                  already made it fairly clear that this was an  
14                  internal analysis that has been done, and in  
15                  fact later pages of this document that would  
16                  speak to these details have been redacted. And  
17                  so in my submission it would not be appropriate  
18                  to ask them now to speak to the results of this  
19                  clearly internal and privileged analysis.

20                  THE COMMISSIONER: Ms. Rose, what do you say to that?

21                  MS. ROSE: I'm content to proceed and ask a different  
22                  question, Mr. Commissioner.

23                  Q     I am experiencing a little bit of technical  
24                  issues, so if I cut out for any reason, I do  
25                  apologize.

1                   If we could turn to -- oh, I did have a  
2                   question, but I anticipate Ms. Davis may have  
3                   the same objection. So I'll just skip over that  
4                   one.

5           THE COMMISSIONER: I just want to deal with that  
6                   objection, if I can, because I'm not quite sure  
7                   I understand it.

8           MS. ROSE: Pardon me, Mr. Commissioner. I apologize.

9           THE COMMISSIONER: No, that's fine. If I understand  
10                   the evidence of the witnesses, the analysis  
11                   that's referred to in this slide was  
12                   communicated publicly through other means and  
13                   documents, and so I'm not quite sure how it  
14                   would be covered by privilege in those  
15                   circumstances, Ms. Davis.

16           MS. DAVIS: Thank you, Mr. Commissioner. And perhaps  
17                   if I could clarify. So to the extent that any  
18                   of this information has been translated into  
19                   public facing information, certainly the  
20                   witnesses could share that here. I think the  
21                   issue is that the witnesses have made clear that  
22                   the specific details and results of this study  
23                   are internal work product, and so not all of  
24                   those details would have made it, I understand,  
25                   into the public domain. They would have been

1 transcribed or translated in some way so that it  
2 was appropriate to share publicly. So they can  
3 certainly speak to that. My only objection is  
4 to have them actually get at details that were  
5 otherwise part of something internal that have  
6 not been translated or shared.

7 THE COMMISSIONER: Yes. All right. Well, that I  
8 think sharpens the focus of the objection a  
9 little bit, and I think in the circumstances  
10 it's permissible for Ms. Rose to pose the  
11 question whether there was a communication of  
12 the results of the analysis through the --  
13 through public dissemination, and if so, what  
14 was the result that was communicated publicly.

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

16 Q So without seeking to repeat a question I've  
17 already asked, were the conclusions from this  
18 report ...

19 THE COMMISSIONER: Well, I think the question may be  
20 to the extent that the analysis was communicated  
21 in a public manner, what was the results of --  
22 what were the results of the analysis?

23 MS. ROSE:

24 Q And perhaps I'll just ask the witnesses to  
25 answer the Commissioner's question, please.

1           A       (AR) So without having top of mind knowledge of  
2                    the specific tabular and numeric results that  
3                    would have accompanied this analysis as being  
4                    summarized, I would venture that there would  
5                    have been a geographic crosswalk of this local  
6                    Canadian real estate market with this external  
7                    foreign nexus of buyers from China. I would  
8                    also venture that we do analysis of other  
9                    Canadian real estate markets, like Toronto, like  
10                  Montreal, any number of markets where we would  
11                  come up with other crosswalks of inflows of  
12                  funds into those real estate markets.

13                         As per your earlier question, Ms. Rose, we  
14                         are careful in how we characterize such a nexus  
15                         in terms of guidance to reporting entities so  
16                         that it focuses most clearly on the indicators  
17                         that they should look for rather than this type  
18                         of statistical analysis that is locally based.  
19                         I would say that that has been the way that  
20                         we've approached this type of work in the past.

21                         What I flagged in an earlier answer is that  
22                         we are initiating work to bring analysis forward  
23                         that would be more specific to sectors or  
24                         geographies in terms of advisories that might be  
25                         more helpful for local markets or sectors, so

1                   that's -- you know, that's a change in how we do  
2                   our public notices that we are currently working  
3                   to bring forward. So that's in contrast to the  
4                   past practice where we would have done  
5                   considerable work about different parts of  
6                   Canada, different external flows of funds, how  
7                   those funds flow through different sectors or  
8                   relate to different types of criminality in  
9                   preparing our previous public-phasing documents.  
10                  I hope that sheds a different light on your  
11                  question and is not in fact repetitive of my  
12                  previous answers.

13                  Q    Thank you, Ms. Ryan. Wouldn't it be assistive  
14                      to reporting entities in making suspicious  
15                      transaction reports to have the kind of  
16                      statistical data that you've just described  
17                      instead of the more generic operational briefs?

18                  A    (AR) That could potentially be true. As I also  
19                      said earlier, we receive representations from  
20                      [indiscernible]. Simple is also good, and  
21                      complexity doesn't always help.

22                      I would also say that different parts of  
23                      our legislation limit the extent to which we can  
24                      do those deep dives into geography, you know,  
25                      lest we approach indirect disclosure either of

1 reporting entities or individuals, transactions.

2 So, you know, on balance, your question of  
3 might such information be helpful, I would say  
4 the answer is probably potentially, but there  
5 are considerations of why we don't produce that  
6 type of information.

7 Q Okay. And then you mentioned you anticipate  
8 further work. Do you anticipate further briefs  
9 with more particularity on this particular  
10 subject?

11 A (AR) I wouldn't venture the results of that work  
12 at this time. It's in -- it's in the scope of  
13 that analysis, but I wouldn't want to get ahead  
14 of what the results might be.

15 Q Okay. Oh, I'm sorry, I see Ms. Achimov keen to  
16 respond. Please, do you have something to add  
17 to that, Ms. Achimov?

18 A (DA) I don't know if it's keen to respond, but  
19 in document appendix 8. I'm sorry, I'm just  
20 trying to ...

21 Q Appendix 8 I believe is the 2019 indicators of  
22 suspicion issued by FINTRAC; yes?

23 A (DA) Yes.

24 Q And, sorry, just to interrupt, that's appendix 8  
25 to exhibit 601.



1           A       (DA) Correct. Page 4, the bottom of that  
2                    document, we talk about money laundering and  
3                    terrorist financing indicators related to  
4                    transactions that involve non-Canadian  
5                    jurisdictions. And, again, here we provide some  
6                    high-level guidance in terms of entities that  
7                    operate, you know, out of a jurisdiction that is  
8                    known to be at higher risk and countries with  
9                    weak monitoring -- laundry -- monitoring of weak  
10                   money laundering terrorist financing controls.  
11                   And so we do have some high-level guidance that  
12                   attempts to address some of those geographic  
13                   areas.

14           Q       Okay. And I anticipate with my next question  
15                    I'm going to be met by a response from Ms. Ryan  
16                    that is similar to before, so I do have your  
17                    evidence, Ms. Ryan, on the difficulty FINTRAC  
18                    encounters in terms of developing indicators  
19                    that have sufficient granularity but also  
20                    sufficient simplicity to meet the needs of  
21                    reporting entities.

22                    But, Ms. Achimov, this statement of  
23                    jurisdictions with particular high risk for --  
24                    I'm not sure of the exact phrasing, but doesn't  
25                    that make it incumbent on the reporting entity

1                   to then do research on which jurisdictions have  
2                   higher risk and wouldn't it be easier for  
3                   reporting entities if that was more properly  
4                   spelled out, for example, through a statement  
5                   like is placed on the page in front of us?

6           A       (DA) I mean, it depends on the circumstance.  
7                   However, additional granularity is always  
8                   helpful. However, we do flag -- not all foreign  
9                   entities are of high risk, but we do flag that this  
10                  is -- that this is something, that it's one of a  
11                  number of indicators to look at.

12           MS. ROSE: Okay. I think this document is already  
13                  entered as an exhibit. And I think I've  
14                  finished with my questions with respect to that  
15                  document. So, Madam Registrar, I'll ask you to  
16                  take that down now, please.

17           Q       And I'd like to turn to outreach and engagement  
18                  efforts with the BC real estate sector. And I  
19                  believe this is a topic for you, Ms. Achimov.  
20                  And, Ms. Achimov, you stated on January 18th  
21                  during your testimony that you have about  
22                  15 staff in your Vancouver office. How many of  
23                  those staff are focused on real estate? And if  
24                  it doesn't make sense to answer in terms of  
25                  number of staff, please feel free to answer in

1                   whatever terms make the most sense to you,  
2                   whether that's percentage of hours or some other  
3                   figure.

4           A       (DA) So that's correct, we do have 15 staff  
5                   members in our Vancouver office. Three are  
6                   dedicated to the real estate sector. And in  
7                   addition to that, most of the staff are also  
8                   cross trained, so depending on a given year and  
9                   our real estate exams, we do have the ability to  
10                  leverage our employees who have other areas of  
11                  expertise but who also are cross trained on the  
12                  real estate side.

13                         30 to 40 percent of our exam plan does  
14                         target the real estate area. And in addition,  
15                         I'd say in addition to the Vancouver office, we  
16                         do have a headquarters structure which allows us  
17                         to provide quite a bit of guidance and support  
18                         to the Vancouver office and actually all of our  
19                         offices across the country. So from a  
20                         headquarters perspective there's additional  
21                         research in terms of the risk analysis, there's  
22                         policy interpretation and there are a whole host  
23                         of other supports that we provide to our  
24                         Vancouver office.

25           MS. ROSE: Okay. So, Madam Registrar, if we could

1                   please pull up document CAN-001317.

2           Q       Mr. Achimov, do you recognize this document?

3           A       (DA) Yes, I do.

4           Q       And did you assist in preparing this document?

5           A       (DA) I didn't, but it would have been prepared  
6                   by my team.

7           Q       Okay. And so can you just tell us what this  
8                   document is, please.

9           A       (DA) I'm just -- I have it maybe misnumbered.  
10                   Can you repeat the number.

11          Q       I have it as CAN-001317.

12          A       (DA) Okay. I'm going to read it from the  
13                   screen. I'm sorry [indiscernible]. It does  
14                   talk about our engagement -- it's part of our  
15                   outreach documents and our outreach approach, so  
16                   it provides an overview of what specifically we  
17                   have done in terms of providing guidance and  
18                   doing very targeted outreach. It talks about  
19                   the specific policy interpretations that we  
20                   provide, and, again, policy interpretations are  
21                   as a result of a reporting entity either  
22                   emailing or phone calling us for additional  
23                   clarification. It talks a little bit about what  
24                   we do to help the Canadian Real Estate  
25                   Association input into their risk assessment

1 form. And I have to say, this is a very useful  
2 tool. It's a form that actually provides cues  
3 and insight into what potential risk is, and so  
4 it's a very helpful overlay piece, especially  
5 for new real estate agents that are coming into  
6 the fold. It talks about other work that we do  
7 with the Canadian Real Estate Association in  
8 terms of inputting into their manual, reviewing  
9 their online training, consulting about various  
10 aspects of due diligence and their various tools  
11 such as their workbook created specifically for  
12 the real estate sector.

13 MS. ROSE: Okay. And, Madam Registrar, if we could  
14 scroll down to page 2, please.

15 Q Ms. Achimov, you see the table that's in the  
16 centre of the page there?

17 A (DA) Yes, I do. Yes, now I have my paper copy.  
18 Thank you.

19 Q And with respect to the number of engagement  
20 activities involving the real estate sector  
21 conducted by FINTRAC's Vancouver office in the  
22 furthestmost right column there?

23 A (DA) Yes.

24 Q Do you see that there?

25 A (DA) Yes, I do.

1 Q Okay. And what geographic area does the FINTRAC  
2 Vancouver office cover?

3 A (DA) It's the Greater Vancouver area and the  
4 mainland.

5 Q Does it also include Alberta?

6 A (DA) Yes, it does.

7 Q Okay. And so with respect to these figures  
8 here, do they also include correspondence as  
9 well as events?

10 A (DA) Yes. Yes, they do.

11 MS. ROSE: Okay. And if -- I believe there's --  
12 well, perhaps I should just take you to it.  
13 First of all, Mr. Commissioner, could we please  
14 have this marked as the next exhibit.

15 THE COMMISSIONER: Yes. Very well.

16 THE REGISTRAR: That's exhibit 736, Mr. Commissioner.

17 **EXHIBIT 736: FINTRAC's Engagement and**  
18 **Compliance Activities in the Real Estate Sector**

19 MS. ROSE: Thank you. And, Madam Registrar, if we  
20 could please pull up exhibit 449. And so if we  
21 scroll to the very bottom of this document,  
22 please, Madam Registrar. I suppose I shouldn't  
23 ask you to scroll. I should direct you to go to  
24 page 23, please. Okay. And if we could just go  
25 up a little bit to the previous page, Madam

- 1 Registrar. Thank you.
- 2 Q So do you see this event here that's referred to  
3 as December 1st, 2020, Ms. Achimov?
- 4 A (DA) Yes.
- 5 Q Okay. And there's four entries for that event,  
6 is that -- I'm sorry. This is an event that  
7 took place on December 1st and 3rd in tandem  
8 with the BC Real Estate Association; is that  
9 right?
- 10 A (DA) Correct.
- 11 Q If we scroll down, Madam Registrar we can see  
12 that it took place over the course of two days  
13 on December 1st and 3rd; is that right?
- 14 A (DA) That's correct. It was a conference.
- 15 Q Okay. And that's listed as four separate events  
16 there; is that right?
- 17 A (DA) There were four separate events in those  
18 few days, yes. There were four separate  
19 activities.
- 20 Q And that's because there is a morning and an  
21 afternoon session on each of those days?
- 22 A (DA) Correct.
- 23 Q Okay.
- 24 A (DA) There were about -- I mean, on this event  
25 there were 160 participants more or less.

1 Q 160 participants?

2 A (DA) Yes.

3 Q And who were those participants?

4 A (DA) They were real estate brokers and agents.

5 MS. ROSE: Okay. We can take this down from the

6 screen now, Madam Registrar. Thank you.

7 Q Ms. Achimov, are you aware of criticism from the  
8 BC real estate industry to the effect that there  
9 has been inadequate training and education of  
10 real estate reporting entities with respect to  
11 their *PCMLTFA* obligations?

12 A (DA) Yes.

13 Q And do you have a response to that?

14 A (DA) Well, that's part and parcel of the work  
15 that we're doing with the various associations  
16 in terms of having much more targeted training,  
17 much more specific information, making our  
18 website more user friendly. It's a catch 22;  
19 right? In some instances it's -- there's not  
20 enough information, more is required, and the  
21 then the other part of the other part of the  
22 criticism is there's way too much information,  
23 it's got to be more targeted. And so we're  
24 trying to find the right balance, and part of  
25 that is working with the various associations,



1 focus testing, actually working with our  
2 regional compliance officers because they're on  
3 the ground. They also get very specific  
4 feedback. And we have a lot of contributions by  
5 BCREA and RECBC in terms of working with them to  
6 help refine their training modules. So it's an  
7 iterative process and we're always open to  
8 hearing very targeted feedback that will allow  
9 us to improve our products.

10 Q Okay. So I'd like to turn now to the issue of  
11 compliance by the real estate sector of BC.

12 A (DA) Yes.

13 Q And I'll just note that, Ms. Achimov, I already  
14 have your evidence about the shifts that FINTRAC  
15 has undertaken from an audit model to an  
16 assessment model, and Mr. Commissioner, that's  
17 at page 137 of the January 18th transcript.

18 THE COMMISSIONER: Thank you.

19 MS. ROSE:

20 Q So I have a couple of documents that I'd like to  
21 put to you, Mr. Achimov, and I understand that  
22 you have some familiarity with these documents  
23 but that you're only able to speak to them at a  
24 high level. So I am keeping that in mind.

25 Madam Registrar, if we could please pull up

1 CAN-001321.

2 Ms. Achimov, could you just tell the  
3 Commissioner what this document is.

4 A (DA) This was a presentation that we would have  
5 provided to the Canadian Real Estate Association  
6 in August of 2017.

7 Q Okay. And I can take you through it if you  
8 would like, but I just have a bit of a general  
9 question. In the context of a compliance  
10 process and examination or other such, what is a  
11 complete deficiency and what is a partial  
12 deficiency?

13 A (DA) Okay. Well, a complete deficiency is when  
14 there is absolutely nothing on file when there  
15 are -- there are blatant gaps, so there are no  
16 records, there are -- there are misreporting,  
17 something is -- you know, some of the very basic  
18 components of policies and procedures aren't  
19 there, so there's a whole host of things that  
20 are blatantly not part of a file that are  
21 expected to be.

22 Q Okay. And so, Madam Registrar, perhaps we can  
23 just turn to page 6 to allow you to have an  
24 example of what we're describing.

25 A (DA) Right.

1           Q     So do you see here there's two pie charts  
2                   representing those who are found to be  
3                   compliant, partially deficient and completely  
4                   deficient?

5           A     (DA) That's correct, yes, I see it.

6           Q     And so that's -- those are statistics in  
7                   reference to what you've just described?

8           A     (DA) Exactly. And it refers to basic record  
9                   keeping. So in terms of basic record keeping  
10                  what we hope to see are basic information of who  
11                  the purchaser is, date of purchase, some basic  
12                  background information, and so this is what the  
13                  record keeping is, and that's fundamental to any  
14                  transaction, it's the point of sale, the dates,  
15                  the times when payments have been made, who's  
16                  made the payment. So it's at that basic level.

17          MS. ROSE: Mr. Commissioner, I would ask that we have  
18                  this document marked as exhibit 737, please.

19          THE COMMISSIONER: Very well. 737.

20          THE REGISTRAR: Exhibit 737.

21                   **EXHIBIT 737: FINTRAC's meeting with the**  
22                   **representatives of the Canadian Real Estate**  
23                   **Association - August 23, 2017**

24          MS. ROSE: And, Madam Registrar, could we please have  
25                  CAN-001328.

1 Q Okay. And, Ms. Achimov, do you recognize this  
2 document?

3 A (DA) Yes, I do.

4 Q And could you just briefly tell us what this  
5 document is.

6 A (DA) So this would have been a presentation that  
7 we -- that the compliance team would have made  
8 to the Toronto Real Estate Board back in 2018.

9 MS. ROSE: Okay. And, Madam Registrar, could we  
10 please turn to page 29. Your page 29 is  
11 appearing to be different from my page 29. I  
12 think just back one page there, Madam Registrar.  
13 Yes, this is the page I'm looking for.

14 Q Ms. Achimov, do you see this slide saying what  
15 real estate STRs talk about?

16 A (DA) Yes, I do.

17 Q And there's a reference to a review of 2003 to  
18 2013 STRs submitted by the real estate sector?

19 A (DA) Yes.

20 Q Okay. And this slide is breaking down the types  
21 of fact patterns that are being described in  
22 those STRs; is that fair?

23 A (DA) That's correct. That's part of our  
24 educational process.

25 MS. ROSE: Okay. Mr. Commissioner, could we please

1                   have this document marked as exhibit 738.

2           THE COMMISSIONER: Very well.

3           THE REGISTRAR: Exhibit 738.

4                   **EXHIBIT 738: FINTRAC Real Estate Sector**

5                   **Presentation - Toronto Real Estate Board**

6                   **Toronto - April 26, 2018**

7           MS. ROSE: Okay. And, Madam Registrar, if we could  
8                   please have CAN-001315.

9           Q     Ms. Achimov, what is this document?

10          A     (DA) It's our welcome letter that we started to  
11                   issue last fall to new real estate agents.

12          Q     Okay. And this is sent out to all BC real  
13                   estate brokerages?

14          A     (DA) Well, we started -- yes, we started to do  
15                   that in the fall, and that's in relation to  
16                   finding new real estate agents as they come  
17                   online, and it is the welcome -- I think I  
18                   mentioned earlier newly licensed real estate  
19                   agents. So that's a huge trigger for us when we  
20                   get that information. Identifying the  
21                   population is always key, and I will say that  
22                   part and parcel of having good compliance is  
23                   when you can reach a reporting entity at the  
24                   very early stages. So there's lots of  
25                   obligations when someone is newly licensed and

1                   we take advantage of that. And this was a pilot  
2                   program, so we've been working with RECBC. We  
3                   have an MOU that's been very, very helpful to us  
4                   in terms of identifying these new registrants  
5                   that come on board. And then what we do is  
6                   reach out, so we indicate what their roles and  
7                   their obligations are, we provide interesting  
8                   web links in terms of what their reporting  
9                   obligations are and we provide a point of  
10                  contact.

11                                It's early days, but so far the takeup has  
12                   been really good. We've had some great feedback  
13                   and we're looking to roll this out across the  
14                   country because it's a very simple tool, low  
15                   cost, highly effective, and as I mentioned,  
16                   early days, that's really key to get at a new  
17                   registrant and provide that basic information.  
18                   As well as a key contact point.

19                  Q       And so just so that I have your evidence quite  
20                   right on this point, has this been sent out to  
21                   all real estate brokerages across BC or only  
22                   those that have just become newly licensed?

23                  A       (DA) Only those that have just become newly  
24                   licensed, and if I recall, we started this in  
25                   November or last fall of last year of 2020.

1 MS. ROSE: Okay. Mr. Commissioner, I would have ask  
2 that we have this document marked as  
3 exhibit 739, please.

4 THE COMMISSIONER: Yes, very well, 739.

5 THE REGISTRAR: Exhibit 739.

6 **EXHIBIT 739: FINTRAC's Compliance Sector BC**  
7 **Real Estate Brokerages Welcome Letter Template**

8 MS. ROSE:

9 Q Ms. Achimov, at a sort of high level, do you  
10 consider compliance from the BC real estate  
11 sector to have been inadequate in the past five  
12 years?

13 A (DA) It's been a challenge across the country.  
14 I wouldn't necessarily single out BC.

15 Q Okay. So the concern with respect to the real  
16 estate sector is nationwide?

17 A (DA) It's nationwide.

18 MS. ROSE: Okay. Madam Registrar, could we please  
19 have CAN-001377 on the screen.

20 Q Ms. Achimov, do you recognize this document?

21 A (DA) Yes, I do.

22 Q And what's this?

23 A (DA) It is one of our -- it's an example of our  
24 exam finding letters.

25 Q Could you just explain the context in which this

1 letter would have been sent.

2 A (DA) So essentially when we examine a reporting  
3 entity, there are various stages of the  
4 examination process, but this is near the tail  
5 end. This is where we summarize what our  
6 findings are. Now, we typically would have a  
7 meeting, so there are no surprises, but what's  
8 in this letter is a recap of all of the areas  
9 that are either deficient or have been done  
10 correctly or areas that require remediation.  
11 And I'd like to say that part and parcel of  
12 what's interesting here is this varies  
13 significantly from what we used to do when we  
14 had the audit process. In the audit process it  
15 was very, very technical, our letters back were  
16 highly technical, and here what we're trying to  
17 do is actually go into enough detail with an  
18 outline of what was -- what the problem was,  
19 what the deficiency was, what we see as the  
20 severity or the harm done and potential  
21 mitigation. So this, if you will, offers the  
22 reporting entity their blueprint in terms of  
23 what they need to do in terms of addressing the  
24 shortcomings or the deficiencies.

25 And I should add that before this goes out,



1                   we do have a meeting and we do give the  
2                   reporting entity an opportunity to either  
3                   provide the additional evidence or the  
4                   documentation that they have in terms of  
5                   allowing us to ensure that we have the complete  
6                   report. And then this becomes part of the file,  
7                   and we sometimes do followup examinations and  
8                   this is a key indicator for the next time we do  
9                   an examination to make sure that there has been  
10                  progress and improvement in terms of the  
11                  deficiencies we've identified.

12                MS. ROSE: I'm just going to ask, Madam Registrar, if  
13                   you could turn to the next page of this  
14                   document. And the next page after that.

15                Q    Okay. So I'm just going to ask you to confirm  
16                   first the contents of the document with respect  
17                   to the deficiencies that have been identified  
18                   here, Ms. Achimov. So first do you see there's  
19                   a deficiency -- sorry, there's a deficiency  
20                   number 1 that is "*PCMLTF* regulations -  
21                   compliance program - policies and procedures."  
22                   Do you see that there?

23                A    (DA) I will in a moment. I'm sorry, my screen  
24                   has just -- deficiency number 1, yes, I do.

25                Q    And that's the policies and procedures

1                   deficiency?

2           A       (DA) That's correct.

3           MS. ROSE: And then, Madam Registrar, if you scroll  
4                   down to the next bolded heading there.

5           Q       And deficiency number 2 there is "PCMLTFA  
6                   regulations compliance program risk assessment."  
7                   Do you see that there?

8           A       (DA) Correct.

9           MS. ROSE: Madam Registrar, if you could scroll down  
10                  to the next heading of deficiency.

11          Q       So we see deficiency 3 here on page 3, and  
12                  that's "compliance program – ongoing compliance  
13                  training program." Do you see that?

14          A       (DA) Yes, I do.

15          Q       And then if we scroll down further, deficiency  
16                  number 4 is "review of policies and procedures,  
17                  risk assessment and ongoing training program."  
18                  Do you see that?

19          A       (DA) Yes.

20          Q       And then finally we have deficiency number 5 if  
21                  we scroll down and that's "record keeping –  
22                  prescribed records." Do you see that there?

23          A       (DA) Yes, I do.

24          Q       Okay. And so now that I've -- as I said,  
25                  keeping Madam Registrar on her toes, I'd like to

1 go back to the second deficiency, which I  
2 believe is on page three, if I have that right.  
3 Oh, there we are. You're faster than me, Madam  
4 Registrar. Thank you.

5 So with respect to the risk assessment  
6 process, here there was a failure to assess each  
7 type of client and business relationship. And  
8 if we zoom in a little bit on that, I'll be able  
9 to provide you the reference of that particular  
10 statement.

11 Sorry, Madam Registrar, if we could zoom in  
12 on this paragraph beginning with "clients and  
13 business relationships."

14 So, Ms. Achimov, do you see the statement  
15 in the second line of this paragraph beginning  
16 with "clients and business relationships" which  
17 states:

18 "... your organizations documented risk  
19 assessment does not assess each type of  
20 client and business relationship that it  
21 offers its services to."

22 Do you see that there?

23 A (DA) Yes, I do.

24 Q Okay. And then if we scroll down to the  
25 paragraph starting with "products."

1           A       (DA) Yes.

2           Q       And there's a statement that:

3                        >Your organization's documented risk  
4                        assessment does not assess the products it  
5                        offers its clients."

6                        Do you see that?

7           A       (DA) I do.

8           Q       And then if we look at the paragraph beginning  
9                        with "geography," we also see a statement:

10                      >Your organization's documented risk  
11                      assessment does not assess the geographic  
12                      locations for which it provides services  
13                      and products in."

14                      Do you see that?

15          A       (DA) Yes.

16          Q       And so just so I understand, products would be,  
17                      for example, a real estate brokerage that offers  
18                      commercial real estate as well as residential  
19                      real estate. That would be an example of  
20                      products?

21          A       (DA) Yes, that's correct.

22          Q       And with geography, this would be, for example,  
23                      if a brokerage was operating in Vancouver but  
24                      was also operating in Prince George, those would  
25                      have different geographic risks so they would be

1                   asked to conduct a risk assessment for each of  
2                   those geographies?

3           A       (DA) Well, they would have to have, first of  
4                   all, an understanding of the geographies that  
5                   they deal in and then identify any potential  
6                   issues.

7           Q       Okay. But this situation I've described with a  
8                   brokerage that's operating in Prince George as  
9                   well as Vancouver, that's an example of the  
10                  geographical risk that's being described here?

11          A       (DA) It's not necessarily the risk. It's the  
12                  geography that they operate in. So they're  
13                  required to report not just on Vancouver -- I  
14                  mean, if they do Vancouver, Prince George, other  
15                  locations, they have to disclose that as part of  
16                  their basic recordkeeping.

17          Q       Okay. And so this failure to risk assess times  
18                  of clients, types of products and geography, are  
19                  those failures typical of the failures that your  
20                  department sees by real estate reporting  
21                  entities with respect to their risk assessment  
22                  obligations?

23          A       (DA) Yes. So those have been some of the areas  
24                  that we have been looking at. We have some  
25                  trends in terms of things that, you know, score

1                   very well and then areas where there have been  
2                   deficiencies, and we spend a lot of time  
3                   educating on those areas of deficiencies.

4                   I should say that as part of our  
5                   transparency initiative back in 2019 we  
6                   published our playbook. Basically that was a  
7                   big change in what we did. We basically made it  
8                   very open and transparent. There were no  
9                   surprises in terms of what it is that we are  
10                  assessing when we come into assess and  
11                  specifically what we're looking for and  
12                  specifically what the reporting entity must do  
13                  in terms of complying. And this is touted as a  
14                  leading practice, being that open and  
15                  transparent. So there's no I got you, you know,  
16                  I'm hiding behind the weeds on something. So  
17                  there's certain areas. And then we've dedicated  
18                  a lot of time -- after an assessment in terms of  
19                  educating the real estate entity and their  
20                  respective teams in terms of the deficiencies  
21                  and how they can improve. And so these are some  
22                  areas that have typically been difficult,  
23                  especially for some of the smaller  
24                  organizations. And, again, that's where we  
25                  spend a lot of time, effort and energy providing

1 information and very simplistic guidance in  
2 terms of how to meet the basic standards of some  
3 of this record keeping.

4 Q Okay. And when you say on the smaller end of  
5 the market, are you -- I think we've heard  
6 evidence that the average real estate brokerage  
7 in BC is about four people. Are you aware of  
8 that statistic?

9 A (DA) Well, I'm aware that small entities are  
10 indeed small entities, and that's why it's a  
11 challenge for them to have policies and  
12 procedures and some of that infrastructure.  
13 That's why we go to great lengths in terms of  
14 indicating what is required so that there's no  
15 guessing game so that people in small  
16 organizations can actually focus on what's most  
17 important and that they have the basics in  
18 place.

19 Obviously the larger entities have no  
20 issues with formal policies and procedures and  
21 training seminars, so we're very, very conscious  
22 of that smaller organization. And that's part  
23 of our commitment to reduce burden, to be very  
24 transparent, to avoid the guessing game, and I  
25 have to say, even the fact that, you know, we do

1 offer that policy interpretation and that  
2 guidance by phone, on our website. And I will  
3 say one thing. I'm just conscious that it's --  
4 we're a year into living through COVID, and I  
5 have to say that that guidance and that  
6 direction has been there and it hasn't  
7 stopped while we shifted to a more offsite  
8 approach. So all the more reason that we've  
9 been updating our website and providing that  
10 type of information for the smaller entities.

11 Q Okay. And this transparency initiative that you  
12 described being implemented in 2019, do you  
13 recall approximately when in 2019 that was  
14 implemented?

15 A (DA) Well, it was -- throughout 2019 we received  
16 money in the federal budget, and we spent quite  
17 a bit of time looking at our overarching, our  
18 framework, developing key pieces of guidance.  
19 And I believe many of the accomplishments were  
20 in late summer, so August of 2019.

21 Q Okay. So the results of compliance examinations  
22 that were conducted in 2019 would you expect  
23 those to have been influenced by that initiative  
24 or not?

25 A (DA) They were starting. So basically what we





1           A       (DA) Yes, if that's what we reported in the  
2                    minister's report.

3           Q       It sounds like -- I don't want to -- it's not a  
4                    pop quiz, so I don't want to strain your memory  
5                    if that's not something you recall.

6                    So how about we go to, Madam Registrar, if  
7                    we could go to exhibit 629, please. Now if we  
8                    could go to page 13 of that document. And I'm  
9                    afraid --

10          A       (DA) Which page, Ms. Kelly [sic].

11          Q       Yes, it's page 13, I believe. And I'm sorry,  
12                    I'm just going to have to take a moment to find  
13                    where on the page that is. That doesn't look  
14                    like the right page, so I'm struggling a little  
15                    bit here. Perhaps we could just go to page 20,  
16                    Madam Registrar. If we could scroll down,  
17                    please. So at the bottom paragraph here,  
18                    Ms. Achimov --

19          A       (DA) Yes.

20          Q       -- do you see the statement:

21                    "Examinations uncovered deficiencies with  
22                    the requirement to risk assess clients."

23          A       (DA) Yes.

24          Q       Do you see that 64 percent were partially  
25                    non-compliant and 31 percent were in complete

1 non-compliance?

2 A (DA) Yes.

3 Q Okay. And so, again, I think that -- I seem to  
4 put myself in the position of conducting math in  
5 real time, which is always dangerous. But if I  
6 can do this math, my figures show 95 percent are  
7 either partially or completely non-compliant.

8 A (DA) So a great deal are. And I do have to say  
9 when we look at trends in terms of areas of  
10 weakness, the risk assessment is really key.  
11 And that's why we've been working with many of  
12 the real estate associations to develop a  
13 checklist to make that -- that area of  
14 compliance a little more intuitive and better,  
15 and I also have to say that, you know, we  
16 supervise over 7,000-plus real estate reporting  
17 entities, and in the market there's that ebb and  
18 flow that I mentioned. So I don't want to sound  
19 defensive in any way, but it's a constant churn  
20 in terms of as new entrants come in, this is an  
21 area that we know has been a deficiency and this  
22 is a targeted area that we actually go after in  
23 terms of ensuring that there is solid  
24 understanding, that there's mechanisms to be put  
25 in place. And that's why we worked very closely

1 with the Canadian Real Estate Association on a  
2 checklist to make this more intuitive and easier  
3 to comply with. And it remains a challenge and  
4 we're continuing to explore ways in which we can  
5 improve not only the education but assessing  
6 things that work. And don't forget when we go  
7 back and do our second exam or a followup exam,  
8 those are the areas that we completely zero in  
9 on and when we see that there's good success, we  
10 zero in on that. We try and understand what  
11 makes that successful, and that's when we try  
12 and share it, and again, recycle it and put that  
13 back out into the community.

14 Q I'm sorry, I've committed the classic faux pas  
15 of Zoom which is talking when you're on mute.

16 So this checklist you're referring to is  
17 with the Canadian Real Estate Association, and  
18 that's for risk assessment; is that right?

19 A (DA) Yes.

20 MS. ROSE: Madam Registrar, if we could just scroll  
21 down a little bit. Not too much here. That's  
22 perfect. Thank you.

23 Q So, Ms. Achimov, do you see at the bottom of  
24 page 20:

25 "The examinations uncovered that many real

1 estate businesses use a risk assessment  
2 checklist provided by CREA but fail to  
3 supplement the information with a  
4 justification or rationale as to why a  
5 specific rating was assigned to a given  
6 risk factor."

7 Do you see that there?

8 A (DA) Yes. So if I may, a checklist is a  
9 checklist. So what we want is when the tick  
10 mark goes on, we want a little bit of rationale,  
11 not in a lot of detail, but there has to be a  
12 little bit of substantiation. You know, it's  
13 very easy just to tick off an entire checklist,  
14 throw it in and say I'm done. That defeats the  
15 whole purpose in terms of what we're trying to  
16 do by ensuring compliance to ensure safety in  
17 the Canadian economy.

18 So we're working on new educational tools,  
19 especially for the suspicious transaction  
20 reporting. So we're trying to be a little more  
21 agile, offering the right type of instructions  
22 so that we pull away from the checklist.

23 I'm a big fan of checklists because it  
24 allows you to logically structure your review,  
25 to think about it, to educate, but then the

1 secondary part is what we're really trying to  
2 get at and we hope to publish some of that in  
3 the next couple of months. So more to come on  
4 that.

5 Q Okay. And I can confess, I'm a big fan of  
6 checklists as well.

7 So basically what we're seeing in this  
8 report is that the reporting entities are using  
9 this checklist, but they're found to be  
10 partially non-compliant because they're not  
11 performing the second step that you've just  
12 described.

13 A (DA) That's exactly it.

14 MS. ROSE: Okay. I feel that I may have forgotten to  
15 mark as an exhibit the past document we were  
16 looking at, which was CAN-001377. Madam  
17 Registrar, am I correct that I've made that  
18 error?

19 THE REGISTRAR: Yes, you're correct.

20 MS. ROSE: So, Mr. Commissioner, could we please have  
21 that marked as the next exhibit.

22 THE COMMISSIONER: Yes, very well.

23 THE REGISTRAR: Exhibit 740. Mr. Commissioner.

24 **EXHIBIT 740: Sample FINTRAC Letter, re**  
25 **Compliance Examination Findings (redacted)**

1 MS. ROSE:

2 Q Ms. Achimov, I'll now ask you a couple questions  
3 about administrative monetary penalties.

4 A (DA) Yes.

5 MS. ROSE: And sorry, Madam Registrar, I have no  
6 further need of this document. Thank you.

7 Q So I believe this information is contained in  
8 the annual report, and I can take you there if  
9 you like, but let's see how we do without it to  
10 begin with. I believe that there was one  
11 administrative monetary penalty issued in fiscal  
12 year 2019 to 2020 for non-compliance in the real  
13 estate sector. Are you familiar with that fact?

14 A (DA) Yes, I am.

15 Q Would you like the benefit of going to the  
16 annual report because we can do that if you  
17 like?

18 A (DA) Yeah, if you don't mind.

19 Q Sure. And let's see how nimble I can be here.  
20 The annual report I believe is at exhibit 733  
21 now. And if we could go to -- I believe it's  
22 page 16. Oh, I'm sorry, it's page 24. Pardon  
23 me, Madam Registrar.

24 A (DA) Thank you. I appreciate that.

25 Q If we zoom in on the left-hand side in the

1 paragraph that begins with "in 2019 to 2020."

2 Sorry, it's near the top of the page on the

3 left-hand side.

4 A (DA) Yes.

5 Q So you see here there's a statement that in 2019

6 to 2020 FINTRAC issued two administrative

7 monetary penalties for non-compliance, one in

8 the real estate sector. Do you see that there?

9 A (DA) That's correct.

10 Q Okay. And do you know if this was in BC?

11 A (DA) I'm not sure it was in BC. I will say that

12 2019 just for purposes of context, that was

13 post-review of our administrative monetary

14 penalty program. The program was launched back

15 in 2009 and in 2019 we had done a significant

16 overhaul. That was part of our transparency

17 initiative. And if I recall in 2019, we had

18 [indiscernible] penalties and three were in BC,

19 I think.

20 Q I'm sorry, so -- I'm just having trouble

21 reconciling those facts with the annual report.

22 You're saying that there were actually six

23 administrative monetary penalties --

24 A (DA) Sorry, I should have said since 2019.

25 Q I see. Thank you for clarifying. And three of



1                   those are in BC. That's right?

2           A       (DA) Correct.

3           Q       And do you know the value of those penalties?

4           A       (DA) No, I don't. I would have to go back and  
5                   get that for you.

6           Q       Do you -- are you aware of whether they could be  
7                   categorized by FINTRAC as minor, serious or very  
8                   serious?

9           A       (DA) No. I don't have that granularity. I can  
10                   provide that, but I don't have that right now.

11          Q       That's no problem.

12                   Madam Registrar, could we please turn to  
13                   document CAN- -- I'm afraid -- I think I already  
14                   marked this as an exhibit. I'm looking for  
15                   1317. I believe that's exhibit 736 now. Okay.

16                   And on page 4 of this document there's a  
17                   bullet point at the bottom there, Ms. Achimov  
18                   that says:

19                   "Since January 2009, FINTRAC has issued a  
20                   total of 19 notices of violation for  
21                   Administrative Monetary Penalties for  
22                   reporting entities in the real estate  
23                   sector."

24                   Do you see that?

25          A       (DA) Yes, I do.

1           Q     Has FINTRAC collected the full amount of these  
2                    fines?

3           A     (DA) I don't know about our collection. I can  
4                    get back to you on that. We typically have a  
5                    good track record of receiving payment for our  
6                    AMPs, but they are in different stages, right,  
7                    so part and parcel is, you know, we provide the  
8                    notice. Then there's an appeal period and then  
9                    once there's the final acceptance, then there's  
10                   the matter of the requirements for payment, the  
11                   receipt of payment, confirmation, that sort of  
12                   thing.

13          Q     Okay. Could you speak to -- do you know what  
14                   the largest penalty issued to a BC reporting  
15                   entity in the real estate sector was?

16          A     (DA) No, I don't have that at my fingertips.

17          Q     That's no problem. Thank you.

18          A     (DA) May I just add a qualifier here? I don't  
19                   want to leave the impression that an  
20                   administrative monetary penalty is key to  
21                   compliance. I mean, I would argue that what  
22                   we're trying to go after is making sure that  
23                   people understand their obligations, that they  
24                   have good reporting, and that in effect the  
25                   penalty is really the last resort. We would

1                   rather change behaviour. That's our goal is to  
2                   change behaviour versus issuing penalties. I  
3                   always worry when you issue penalties and then a  
4                   repeat penalty because then that just  
5                   demonstrates that, you know, the attention to  
6                   the issues at hand aren't being paid attention  
7                   to.

8                   Q     Thank you. Madam Registrar, if we could please  
9                   pull CAN-001171. And, Mr. Commissioner -- okay,  
10                  first I'll ask Ms. Achimov, are you familiar  
11                  with this document?

12                 A     (DA) Yes, I am.

13                 Q     And this is a document that was provided through  
14                  your counsel to the commission responding to a  
15                  request put to you by the commission?

16                 A     (DA) Yes, that's my understanding.

17                 Q     Did you assist in overseeing the preparation of  
18                  this response?

19                 A     (DA) I didn't assist directly, but I'm aware of  
20                  the production of this document. It's from  
21                  my -- our team that's in headquarters, they do  
22                  regional support. That's what RSU is. It's  
23                  regional support unit.

24                 MS. ROSE: So, Mr. Commissioner, you'll see in this  
25                  document a number of references to page numbers

1                   and quotations relating to other documents. To  
2                   make things as simple and expedient as possible  
3                   today, counsel for Canada and I have agreed that  
4                   the page numbers and quotations referred to in  
5                   this document under the response to  
6                   requests 2(b) and 2(c), those relate to  
7                   exhibit 447, which is the 2017 report to the  
8                   Minister of Finance on compliance. And I'll  
9                   also note here that there is a reference in this  
10                  first page to a page 9, which should actually be  
11                  page 10. And then the page numbers and  
12                  quotations referred to in the responses to  
13                  requests 4(c) and 4(d) relate to exhibit 448,  
14                  which is the 2018 report to the minister on --  
15                  of finance on compliance.

16                                So I'll propose to now enter this exhibit,  
17                                Mr. Commissioner, on that basis.

18                   THE COMMISSIONER: Very well. Thank you.

19                   THE REGISTRAR: Exhibit 741, Mr. Commissioner.

20                                **EXHIBIT 741: Fulfilling request from Cullen**  
21                                **Commission - RSU input**

22                   MS. ROSE: Okay. Madam Registrar, could we please  
23                   see the data set on financial transaction counts  
24                   by postal code and activity sector dated  
25                   March 3rd, 2021.

1 Q Ms. Achimov, do you recognize this document?

2 A (DA) Yes.

3 Q And what is this document?

4 A (DA) It's our data -- I'm sorry, my screen went  
5 blank. It's our data on our transactions on our  
6 reporting.

7 Q Okay. And this is --

8 A (DA) It's from our portal -- I apologize, I'm  
9 straining. It's from our open-source data  
10 portal.

11 Q Okay. And this is released quarterly?

12 A (DA) Yes.

13 MS. ROSE: Okay. I'd like to enter this as the next  
14 exhibit, Mr. Commissioner, please.

15 THE COMMISSIONER: Very well. 742.

16 THE REGISTRAR: Exhibit 742.

17 **EXHIBIT 742: Dataset - Financial transaction**  
18 **report counts by postal code and activity**  
19 **sector - dated March 3, 2021**

20 MS. ROSE: And then I have another spreadsheet for  
21 you. Madam Registrar, if we can go to the Excel  
22 spreadsheet with a number of numbers, and then  
23 BCREA request for information.

24 Q Ms. Achimov, are you familiar with this  
25 document?

1           A       (DA) Yes, I am.

2           Q       Okay. And briefly what is this document?

3           A       (DA) Again, it's part of our open source data.  
4                    Oh, wait a second. No, it's the statistics --

5           Q       If you just -- perhaps if you refer to the top  
6                    line and perhaps the middle box of this  
7                    document, it might assist.

8           A       (DA) It's a spreadsheet of our reporting  
9                    entities operating in the real estate sector,  
10                   and it highlights the number of examinations,  
11                   the scopes of deficiencies, the numbers of  
12                   suspicious transactions per year.

13           MS. ROSE: And I have to, again, apologize,  
14                    Mr. Commissioner. In my need for speed I've  
15                    neglected to advertise that I am actually  
16                    seeking leave from the Commissioner to put this  
17                    document to the witness and to have it be later  
18                    marked as an exhibit. This document was  
19                    produced to us last night by counsel for Canada,  
20                    and unfortunately no notice has been provided to  
21                    other participants with respect to this  
22                    document. Counsel for Canada has indicated they  
23                    have no objection to it being entered with a  
24                    caveat of course that Ms. Achimov has only a  
25                    high level of understanding of the document at

1                   this point, and so I'll just pause there to see  
2                   if there are any objections from other  
3                   participants regarding the introduction of this  
4                   document.

5                   THE COMMISSIONER: All right. Well, the notice  
6                   provision is primarily meant to protect the  
7                   witness from being blindsided by unexpected  
8                   documents, but -- so I don't expect there would  
9                   be any objections from any other party, but I'll  
10                  leave it open to other parties to raise any  
11                  objections they may have.

12                 MS. HERBST: Mr. Commissioner, this is Ludmila Herbst  
13                  for the Law Society of BC. I don't expect to  
14                  have any objection. I just -- I note that the  
15                  document seems to have a number of tabs that  
16                  obviously we're not familiar with the content  
17                  of. And if it has anything pertaining to -- not  
18                  just my client but certain other participants,  
19                  it may be that someone has questions that arise  
20                  out of the document later, so I just flag -- I  
21                  just flag that as a potential issue. But  
22                  certainly not on the face of the document  
23                  itself.

24                 THE COMMISSIONER: Well, you raise a good point,  
25                  Ms. Herbst, so I think what we'll do is mark it

Donna Achimov (for the commission)  
Barry MacKillop (for the commission)  
Annette Ryan (for the commission)  
Exam by Ms. Rose

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1                   provisionally and if there's some objection to  
2                   it at a later stage, we can deal with that.

3           MS. ROSE: Yes, thank you, Mr. Commissioner. And I  
4           do apologize for the late manner of introducing  
5           this document.

6           THE COMMISSIONER: Thank you.

7           THE WITNESS: (DA) If I may, I can assure the  
8           commission that this is generic and it's very  
9           high level statistical information. There's  
10          no -- there's no specific individuals or  
11          entities identified here. It's purely numbers  
12          and statistics.

13          THE COMMISSIONER: All right. That's very helpful.  
14          Thank you. So having said it will be marked  
15          provisionally, that still guards against the  
16          prospect that somebody may have some objection  
17          to make, but we'll mark it as the next exhibit,  
18          subject to subsequent submission.

19          THE REGISTRAR: Yes. Exhibit 743, Mr. Commissioner.

20          THE COMMISSIONER: Thank you.

21                   **EXHIBIT 743: Excel spreadsheet re BCREA request**  
22                   **for information**

23          MS. ROSE: Okay. So, Ms. Achimov, if we could  
24          turn -- pardon me. Madam Registrar, if we could  
25          turn to the STR reporting tab of this sheet?



1           Q     Ms. Achimov, this sheet is referring only to  
2                    data related to BC real estate reporting  
3                    entities; is that right?

4           A     (DA) That's correct.

5           Q     Okay. And so this graph in the top left corner  
6                    here, what does that depict?

7           A     (DA) It's the fiscal year, and it's the number  
8                    of Suspicious Transaction Reports that we  
9                    received.

10          Q     And those figures are accurate to the best of  
11                    your knowledge?

12          A     (DA) To the best of my knowledge, yes.

13          Q     Okay. And so in the fiscal year of 2019 to  
14                    2020, BC real estate reporting entities  
15                    submitted 37 STRs?

16          A     (DA) Correct.

17          Q     And I'm going to suggest here a figure from --  
18                    that is from the annual report, so if we need to  
19                    go back to that report, please let me know, or  
20                    perhaps one of your colleagues might also be  
21                    able to confirm. Is it the case that FINTRAC  
22                    received 386,102 STRs in the fiscal year of 2019  
23                    to 2020?

24          A     (DA) I'd have to go back to the annual report.  
25                    I don't have that at hand.

1           Q     I see Mr. MacKillop has unmuted and I'm very  
2                   hopeful perhaps he might have the answer to my  
3                   question.

4           A     (BM) I would says that is extremely close to the  
5                   number if not accurately the number that we  
6                   would have reported.

7           Q     Thank you, Mr. MacKillop. And so, again, during  
8                   the treacherous deed of math live, would it be  
9                   fair to say that 37 STRs is close to 1/100th of  
10                  a percent of the 386,000 reports that were  
11                  received by FINTRAC in total?

12          A     I can't do that math. I can tell you just by  
13                  the stats that it's an increase year over year.

14          Q     All right. I won't -- I certainly would not  
15                  seek to test anyone's mathematical abilities  
16                  with my own being as they are.

17          A     (DA) But I do have to say -- just to qualify  
18                  that. I apologize. We do receive STRs from  
19                  other reporting entities on real estate. So  
20                  this captures just from the real estate sector,  
21                  but we do receive Suspicious Transaction Reports  
22                  from other areas, financial institutions, large  
23                  banks, that sort of thing, credit unions.

24          Q     Thank you. That's quite helpful.

25          A     (BM) If I may.

1 Q Oh, yes, please, Mr. MacKillop.

2 A (BM) Sorry. Just for -- you know, just to  
3 qualify a little bit and to put it into context,  
4 approximately 90 percent of all our  
5 transactions, whether it's STRs, large cash  
6 transactions, electronic funds, come from our  
7 major financial institutions. So if you're  
8 calculating while 1/100th of 1 percent sounds  
9 extremely small you may want to try your math at  
10 what this represents based on the 5 percent of  
11 reports that we receive outside of our financial  
12 institution. Now, while that will still not  
13 bring it up to a huge percentage it will be  
14 slightly larger than 1/100th of 1 percent.

15 Q Thank you. That's a helpful clarification.

16 So, Ms. Achimov, you've spent -- you've  
17 told us today that -- about the FINTRAC  
18 engagement and education work that's being  
19 conducted and the significant efforts that have  
20 been outlaid in that respect. But despite that  
21 work, these numbers are still extremely low,  
22 wouldn't you say?

23 A (DA) Yes, they are. And -- and we're working  
24 very hard to continue the outreach and to  
25 continue the education and we need and we expect

1 to see more reporting. That's the bottom line.  
2 The message is out. I think the work that the  
3 commission has done, a number of the reports  
4 that have been issued are all pointing to the  
5 fact that we need this particular reporting  
6 entity to submit more reporting.

7 Q How do you account for those low numbers?

8 A (DA) I mean, part of it is for the longest time  
9 this sector didn't really see themselves as  
10 having a role to play in the fight against money  
11 laundering and terrorist financing. There was a  
12 pervasive view -- and I would argue that that's  
13 changing now -- there was a pervasive view that  
14 that was the role of the banks and the entities  
15 that actually touch the money, and for the  
16 longest time one of the myths was, you know, if  
17 somebody came in with a gym bag of, you know,  
18 old \$20 bills, that's money laundering. If I  
19 didn't see that, then I didn't have to do  
20 anything else.

21 So it really is -- I think it's broad  
22 industry awareness. I think there's also in  
23 some pockets there was some cultural hesitancy  
24 in terms of it's not culturally acceptable to  
25 ask where your source of money is and how you

1                   come by your money, and so, again, that's where  
2                   we work with the real estate associations and  
3                   industry itself to make sure that we find ways  
4                   of working around some of those cultural  
5                   barriers as well. But it's an ongoing effort,  
6                   and again, as I said, a lot of the media  
7                   coverage, the work that your commission is  
8                   doing, a number of the reports, this is now  
9                   becoming more and more publicly aware and as a  
10                  result of our outreach and a number of other  
11                  factors we need and we expect to see more  
12                  reporting.

13                Q     If -- so we've discussed the difficulties that  
14                  the sector has with respect to risk assessment  
15                  programs and the low compliance in that area.  
16                  You recall that?

17                A     (DA) Yes.

18                Q     So I'd just like to know if industry groups were  
19                  to pool their resources to develop risk  
20                  assessment programs that are tailored  
21                  specifically to a particular type of client, for  
22                  example a foreign resident client, or a  
23                  particular type of product such as commercial  
24                  versus residential real estate or a particular  
25                  market in which the brokerage operates, in your

1 view would that be an effective mechanism of  
2 promoting compliance?

3 A (DA) It's certainly one of a number of factors,  
4 and again, this is where we have very close  
5 working relationship with industry. We also  
6 look at what other jurisdictions do in Canada  
7 and globally. We're always on the hunt for a  
8 best practice or a leading practice and we're  
9 not shy to adopt it. It's all about  
10 understanding what the trends are, how the  
11 trends are changing, how we can respond to it  
12 and how we can learn from others. So we would  
13 not turn any good practice away under any  
14 circumstance.

15 Q And just to be clear, I'm suggesting if industry  
16 groups, local real estate boards or other  
17 industry groups, if they were to take on this  
18 work, would FINTRAC have any opposition or  
19 concerns about them doing that?

20 A (DA) No. Not at all. We'd welcome it.

21 Q Okay. And I think I have a couple questions --  
22 sorry, just pardon me. One moment. I'm  
23 actually not sure to whom this question is best  
24 posed, so I'll leave it open to the floor.  
25 There has been some talk about making mortgage

1                   brokers a reporting entity under the *PCMLTFA*,  
2                   and are any of you able to share whether there  
3                   has been any developments in that area?

4           A       (AR) So thank you, Ms. Rose. I'll answer first  
5                   to say that the inclusion of sectors as -- or  
6                   professions within the regime, that's the role  
7                   of the department of finance, and your question  
8                   is better posed to them. You know, to the  
9                   extent that we have means of, you know, watching  
10                  for any signs of illicit activity related to the  
11                  sector through our STRs or other information  
12                  we'll do that, and, you know, to the extent that  
13                  securities regulators interact with aspects of  
14                  that sector, then that's also a partial lens  
15                  that we have to that work.

16          Q       And, again, I'll initially pose this to  
17                  Ms. Ryan, but if others have contributions,  
18                  please don't be shy.

19                         Do you consider that mortgage brokers  
20                         potentially have useful information to provide  
21                         to FINTRAC?

22          A       (AR) I would say there's any number of sectors  
23                  that potentially have useful information to  
24                  provide to FINTRAC, but you know, it's a balance  
25                  of how many sectors you add to the regime.

1 Q Okay. And just to be clear, mortgage brokers  
2 will be one of those sectors?

3 A (AR) Potentially, yes.

4 Q Okay. And what information might be useful for  
5 FINTRAC from mortgage brokers? I see you  
6 hesitating there, Ms. Ryan. I'm not sure if  
7 Mr. MacKillop has any views on this question as  
8 well. Oh, and I will also -- pardon me, Madam  
9 Registrar, we can take this document down now.

10 A (BM) I think in terms of the information  
11 mortgage brokers have, it's the same type of  
12 information that we would be looking for from  
13 just about any of our reporting sectors. So who  
14 is it that's borrowing the money, what is their  
15 source of income, how do they intend to repay  
16 the money, is it a company that is borrowing the  
17 money on behalf of an individual. It's those  
18 kinds of things. And they would also be in a  
19 unique position, given their role to submit  
20 STRs, on potential clients that they believe may  
21 be using their services in order to launder  
22 money. So there's a number, any types of  
23 reports would all be the same types of reports,  
24 they would just give us a different view on  
25 people that are borrowing money to purchase real



1 estate, if they were in fact covered.

2 Q Do either of the other panelists have anything  
3 to add to that answer?

4 A (DA) It's complete. Thank you.

5 MS. ROSE: Okay. So, Mr. Commissioner, those are my  
6 questions for these panelists. And I do note  
7 that despite my most ardent attempts to be as  
8 speedy as possible, I've not been successful in  
9 meeting my goal today. We have gone long, and I  
10 do apologize. I note that the court reporters  
11 are likely very much itching for a break, and we  
12 have indicated to participants that we will be  
13 taking a 30-minute break. So I'm not sure if --  
14 I believe that we have an allotment of  
15 50 minutes of cross-examination for these  
16 witnesses. So I might propose that we take the  
17 break now.

18 A (AR) Ms. Rose.

19 MS. ROSE:

20 Q Yes?

21 A (AR) I do apologize, but you asked earlier if  
22 real estate was mentioned in the document that I  
23 spoke to about professional money laundering.  
24 It's mentioned three times.

25 MS. ROSE: Thank you, Ms. Ryan. That's quite

1 helpful.

2 A (AR) Thank you.

3 THE COMMISSIONER: All right. So your suggestion is  
4 we take 30 minutes now, Ms. Rose, or 15 now and  
5 15 later, or what's the best way to proceed?  
6 I'm just not sure -- I know we've got about  
7 50 minutes set aside for cross-examination. I'm  
8 not sure how long the LTSA panel will be, so we  
9 may want another break along the way.

10 MS. ROSE: I'm receiving many messages to the effect  
11 that we should not take a 30-minute break now  
12 and so I retract that suggestion and instead,  
13 please, if we could have a 15-minute break now,  
14 proceed to cross-examination and then another  
15 15-minute break to allow our staff to transition  
16 between the different panels.

17 THE COMMISSIONER: All right. Thank you. We'll take  
18 15 minutes, then.

19 (WITNESSES STOOD DOWN)

20 THE REGISTRAR: This hearing is adjourned for a  
21 15-minute recess until 12:05 p.m.

22 **(PROCEEDINGS ADJOURNED AT 11:50 A.M.)**

23 **(PROCEEDINGS RECONVENED AT 12:05 P.M.)**

24 **DONNA ACHIMOV, a witness**  
25 **for the commission,**

1 **recalled.**  
2 **BARRY MACKILLOP, a**  
3 **witness for the**  
4 **commission, recalled.**  
5 **ANNETTE RYAN, a witness**  
6 **for the commission,**  
7 **recalled.**

8 THE REGISTRAR: Thank you for waiting. The hearing  
9 is resumed. Mr. Commissioner.

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

11 I will now call on Ms. Friesen on behalf of  
12 the province, who has been allocated 10 minutes.

13 MS. FRIESEN: Thank you, Mr. Commissioner.

14 **EXAMINATION BY MS. FRIESEN:**

15 Q Ms. Achimov, I have a question for you just  
16 regarding the administrative monetary penalties.  
17 You may recall that in response to Ms. Rose's  
18 questions on that subject you spoke about using  
19 administrative monetary penalties as a last  
20 resort and that you prefer to educate towards  
21 compliance. Is that a fair summary of your  
22 evidence?

23 A (DA) Yes, it is.

24 Q And without using monetary penalties I was  
25 wondering if you could describe now FINTRAC

1                   incentivizes reporting in the real estate  
2                   sector?

3           A       (DA) Thank you for that question. Part and  
4                   parcel is the fact that we do a great deal of  
5                   outreach, we educate, we share leading  
6                   practices. It's not just that we expect  
7                   individual entities to report. We like to shine  
8                   a spotlight on areas that are introducing new  
9                   and innovative ways of showing that compliance  
10                  works and we like to showcase that. We work  
11                  with industry associations as well and we've  
12                  seen great progress when we get to collaborate  
13                  and when we're asked to provide input in  
14                  training that the various real estate  
15                  associations are putting out. So it's a whole  
16                  host of things where we can contribute, we can  
17                  leverage good practices, leading practices and  
18                  when we start to see results we like to  
19                  communicate that as well.

20          Q       Okay. Thank you. So it doesn't involve any  
21                  sort of I suppose consequences or any warnings  
22                  or other steps in that regard. It's more  
23                  positive incentivization?

24          A       (DA) I'd like to think that it's positive. It's  
25                  not about the, I got you. It is about

1                   understanding. And once you understand what  
2                   your obligations are, how you have to respond to  
3                   that, that for us is key. And I don't know if,  
4                   you know, the monetary penalties -- I think  
5                   sometimes it's easy to pay a penalty and to walk  
6                   away and not have -- you know, not do anything  
7                   further. I think it takes a lot more work to  
8                   comply, and that's what we're trying to do with  
9                   incenting the compliance through education and  
10                  through showcasing of good practices.

11                 MS. FRIESEN: Thank you. Those are my questions.

12                 THE COMMISSIONER: Thank you, Ms. Friesen.

13                         Now Ms. Herbst on behalf of the Law Society  
14                         of British Columbia, who has been allocated five  
15                         minutes.

16                 MS. HERBST: Thank you, Mr. Commissioner. And thank  
17                         you to the panel.

18                 Q     I just have a few questions arising out of some  
19                         documents touched on this morning for some  
20                         context. Any witness on the panel is more than  
21                         welcome to respond. I don't think we need to  
22                         turn to the documents themselves, but if any at  
23                         point you'd like to for reference please just  
24                         let me know. I'd be glad to.

25                         Now, the first question that I have relates

1 to the FINTRAC annual report for 2019 to 2020,  
2 which became exhibit 733, and I just wanted to  
3 check for that -- the reporting period. When it  
4 says 2019 to 2020, is that for a year-end that  
5 ends on March 31st, 2020?

6 A (BM) It is.

7 Q Okay. And so the annual report for 2019, 2020,  
8 mentions that FINTRAC during that reporting  
9 period conducted 399 compliance examinations  
10 across sectors and 146 in the real estate  
11 sector. Is that a national figure in both  
12 cases?

13 A (DA) Yes, yes, it is.

14 Q Okay. And I know this has been a very tough  
15 last few months, but I'm wondering as the  
16 reporting period for 2020 to 2021 draws to a  
17 close toward March 31st, do you have a sense of  
18 whether those numbers are roughly going to be  
19 replicated in this next reporting period, or is  
20 it too soon to say?

21 A (DA) I think they're going to be lower.  
22 Obviously the world was disrupted with COVID.  
23 You know, we shifted a number of exams that were  
24 due to be, you know, done in person or onsite.  
25 We shifted some of those remotely. We really

1           paid a lot of attention to the entities that we  
2           were planning to examine, so when we phoned and  
3           we -- obviously some of the smaller entities  
4           when they, you know, didn't have the capacity.  
5           So we put a temporary pause on exams, so I would  
6           think that this fiscal year is definitely a huge  
7           anomaly, as we'll see in many other areas. So  
8           it's a temporary pause and we're looking at what  
9           the right timing is to start to resume, and the  
10          physicality of it is really dependent on  
11          provincial health organizations, so yeah. So in  
12          July we did a little bit of the resumption on  
13          the virtual side of things, but, you know, as  
14          provincial health restrictions came in, we ebbed  
15          and flowed.

16           Q    Absolutely. Got it. Thank you. Now, one of  
17           the other documents this morning which captured  
18           FINTRAC's engagement in compliance activities in  
19           the real estate sector -- I believe it's  
20           exhibit 736 -- referred to FINTRAC having  
21           identified almost 7,500 reporting entities in  
22           the real estate sector, and -- but very much  
23           taking the point of the fluidity and entering  
24           into the business and the hard time in pinning  
25           that down.

1                   Just to put that in context, is that as  
2                   contrasted to -- I read in one of the documents  
3                   around 24,000 reporting entities overall that  
4                   FINTRAC has?

5           A       (DA) Yes, yes, that's roughly the case, yeah.  
6                   We have over 24,000. In 10 other reporting --  
7                   nine other reporting sectors.

8           Q       Got it. And if I may ask, for a bank for  
9                   example, and Mr. MacKillop had mentioned the  
10                  large segment of STRs or other reports filed by  
11                  large financial institutions, if it's a national  
12                  bank that happens to have branches across the  
13                  country, is that counted as one reporting  
14                  entity?

15          A       (DA) Yes, it is. Yes, it is.

16          Q       Okay. And then I'm just wondering, because of  
17                  that I suspect this would be difficult to  
18                  answer, so I just ask if you happen to know or  
19                  if this happens to be a statistic that's kept,  
20                  but do you have a sense of how many of the  
21                  reporting entities are BC or is that even a  
22                  statistic that you keep given that national --

23          A       (DA) No, no, I don't have that information, no.

24          Q       And is that the same as well in terms of  
25                  compliance examinations, do you have a sense of



1                    what the provincial breakdown is in terms of  
2                    number, or is that also -- because of that  
3                    national --

4            A        (DA) No. We have an exam plan every year, and  
5                    through that exam plan we have a risk  
6                    assessment, and then we determine how many exams  
7                    we do in each sector in the various parts of the  
8                    country.

9            Q        Do you have a sense -- and I think Ms. Rose has  
10                   referred to this, this isn't intended as a pop  
11                   quiz, so of course no worries if you don't know.  
12                   Do you have a sense of how many compliance  
13                   examinations occurred in BC in the 2019 to 2020  
14                   reporting period?

15           A        (DA) Yeah, I definitely do. Hang on. In the  
16                   2020/21, this fiscal year.

17           Q        Or the last one. Whichever you have statistics  
18                   for.

19           A        (DA) So in the real estate sector, we did last  
20                   year 2019/20 we did 55 exams. Out of those we  
21                   did 25 were desk exams and 30 we went on site.

22           Q        Okay. And that's for BC?

23           A        (DA) That's for BC, correct.

24           MS. HERBST: Got it. Thank you very much. Those are  
25                   my questions.

1 A (DA) Thank you.

2 THE COMMISSIONER: Thank you, Ms. Herbst.

3 Now Mr. Usher on behalf of the Society of  
4 Notaries Public of British Columbia, who has  
5 been allocated five minutes.

6 MR. USHER: Thank you, Mr. Commissioner. Having  
7 heard the testimony this morning, I have no  
8 questions.

9 THE COMMISSIONER: Thank you, Mr. Usher.

10 And now on behalf of the Canadian Bar  
11 Association and the Criminal Defence Advocacy  
12 Society, Ms. Dickson has been allocated five  
13 minutes

14 MS. DICKSON: Thank you, Mr. Commissioner. And thank  
15 you to the panelists. Similarly, I have no  
16 questions for them.

17 THE COMMISSIONER: Thank you, Ms. Dickson.

18 Now Mr. Rauch-Davis for Transparency  
19 International Coalition, who has been allocated  
20 10 minutes.

21 MR. RAUCH-DAVIS: Thank you.

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

23 Q Ms. Achimov, my understanding is that the know  
24 your client obligations under the *PCMLTFA* are  
25 changing in June 2021 and that will require real

1 estate professionals and other reporting  
2 entities to verify the beneficial ownership  
3 information of their corporate clients; is that  
4 right?

5 A (DA) That's correct.

6 Q And so is it fair to say that these changes were  
7 in response to knowledge or understanding that  
8 money launders have been using corporations and  
9 legal entities to launder money including in the  
10 real estate sector?

11 A (DA) I believe that that was part of the driving  
12 factor, yes.

13 Q And so in anticipation of these changes, you've  
14 talked a bit about the education that FINTRAC  
15 has engaged in with its reporting entities. So  
16 my question is has FINTRAC provided guidance to  
17 real estate professionals on how they're  
18 expected to verify that beneficial ownership?

19 A (DA) It's coming. We're drafting it, part and  
20 parcel is -- part of it is we're working with  
21 industry and that's in the drafting stages and  
22 it should be ready, I would say, in the next two  
23 weeks.

24 Q And maybe you can just describe what that will  
25 look like. Is it just an email or some sort of

1 information package? What does that look like?

2 A (DA) So we typically draft our guidance, we post  
3 our guidance on our website. It is a document  
4 that explains what the shift is, what the change  
5 is, what the obligations and the requirements  
6 are, when that comes into effect. And as my  
7 colleague Ms. Ryan mentioned earlier, we have a  
8 variety of means of pushing out that  
9 information. So we have our RSS feeds; we have  
10 people on our emailing list, and so that's being  
11 pushed out. We take the opportunity to  
12 obviously work with the sectors implicated, so  
13 not just the real estate sector but other  
14 sectors that this would apply to. And then  
15 we -- any opportunity that we have as we're  
16 doing our assessments with reporting entities we  
17 communicate that and obviously when we're  
18 invited to speak or provide presentations to  
19 specific industry groups.

20 Q And I think the language in the regulations is  
21 something along the lines of taking reasonable  
22 steps to ensure the information is accurate. In  
23 that guidance information you just alluded to,  
24 will FINTRAC be providing guidance on how to  
25 meet that type of obligation?

1           A       (DA) Yes. We'll try and be as informative as we  
2                    can be in terms of providing suggestions,  
3                    examples. And that's really the shift of how  
4                    we're developing our guidance. We like to use  
5                    examples, we like to use scenarios that give a  
6                    sense in terms of how this applies to a  
7                    particular sector.

8           Q       And so the commission has heard some evidence  
9                    about the potential utility of a publicly  
10                   available corporate beneficial ownership  
11                   registry. So from FINTRAC's perspective, would  
12                   a reporting entity's use of information  
13                   contained within a beneficial ownership  
14                   registry, would that be sufficient to meet their  
15                   *PCMLTFA* beneficial ownership obligations?

16          A       (DA) I don't know if I'm equipped to answer  
17                    that. I don't think that in and of itself would  
18                    suffice.

19          Q       You're not really in a position until it's  
20                    created, I take it.

21          A       (DA) That's right. I mean, that would obviously  
22                    be a question that would be asked as part of our  
23                    policy interpretation, but I just don't feel  
24                    equipped to answer that at this point.

25          Q       Right. I appreciate it's a bit speculative

1                   considering that a publicly available registry  
2                   isn't available yet. So I take it you'd have to  
3                   see the mechanics before you could make any  
4                   comment on that type of -- on the utility on  
5                   that type of registry?

6                   A       (DA) Correct.

7                   MR. RAUCH-DAVIS: Thank you. Those are my questions.

8                   THE COMMISSIONER: Thank you, Mr. Rauch-Davis.

9                               And now Ms. Davis on behalf of Canada, who  
10                   has been allocated 15 minutes.

11                   MS. DAVIS: Thank you, Mr. Commissioner. I did  
12                   notice just in response to that last question I  
13                   saw, Ms. Ryan, that you had your hand up, and so  
14                   I just wanted to give you the opportunity to say  
15                   something if you didn't have that opportunity.

16                   THE WITNESS: (AR) Yes, thank you. I was just going  
17                   to flag that we are actively participating in a  
18                   number of working groups to speak to the forward  
19                   design possibilities of beneficial ownership  
20                   registries so that it would be maximally useful  
21                   to industry as progress is made.

22                   MR. RAUCH-DAVIS: Thank you, Ms. Ryan. I'm sorry.  
23                   You weren't on my screen, so I didn't see your  
24                   hand come up. Thank you.

25                   THE COMMISSIONER: That gets allocated to you,

1                   Mr. Rauch-Davis.

2                   MS. DAVIS: Thank you.

3                   **EXAMINATION BY MS. DAVIS:**

4                   Q     Just a few questions for the panel. I know that  
5                             in your testimony today we've discussed a number  
6                             of the guidance materials and resources that  
7                             FINTRAC has developed specific to the real  
8                             estate sector and also that are more  
9                             generalized. And I don't want to go over the  
10                            same ground. Ms. Rose was quite comprehensive.  
11                            But just for clarity there was mention to a few  
12                            different dates for the operational brief of  
13                            suspicious indicators in real estate. Is it  
14                            correct that that was initially published in  
15                            2016 but was later updated in 2019? Is that  
16                            accurate?

17                  A     (AR) That's accurate with one nuance which is  
18                            that the 2016 document was an operational brief  
19                            with those indicators. The 2019 document was  
20                            guidance that built on that earlier knowledge.  
21                            And I would offer improved clarity of  
22                            communications as well as updated research and  
23                            reflected consultations with industry, for  
24                            example.

25                  Q     Okay. That's helpful. And I believe,

1 Ms. Achimov, in your testimony you referenced  
2 guidance issued to reporting entities and real  
3 estate on how to determine if there are  
4 reasonable grounds to suspect. So was that a  
5 separate guidance document or was that part of  
6 this updated operational brief. And perhaps  
7 that's for you, Ms. Ryan. I'm not sure.

8 A (DA) I believe it was separate. And it provided  
9 some additional context back in 2019, and again,  
10 as I had had mentioned earlier, 2019 was key for  
11 us. It was part of our overall transparency  
12 initiative, so that was one of the hallmark  
13 pieces of the release for the hallmark -- for  
14 the transparency initiative.

15 Q Great. And, Ms. Ryan, do you have anything to  
16 add to that? I just want to make sure I'm  
17 giving you the opportunity.

18 A (AR) Yeah, thank you. I did just pull the 2019  
19 document and while it appears on our website  
20 under guidance, it is conveyed as indicators  
21 [indiscernible].

22 Q Thank you. Okay. So in addition, then, to the  
23 indicators and this other guidance material on  
24 reasonable grounds to suspect, I believe,  
25 Ms. Achimov, you also referenced policy



1                   interpretations. Can you just explain what  
2                   those are, please.

3           A       (DA) Policy interpretations are when we get  
4                   questions about one of our pieces of guidance.  
5                   So as the regulations change, we issue guidance  
6                   and when that guidance either isn't clear or  
7                   when there are nuances, we have a group that  
8                   undertakes research and provides an  
9                   interpretation or a response back to the  
10                  question, and then basically what we do is we  
11                  aggregate those and we put them back on our  
12                  website and we make sure that the information is  
13                  communicated. And if it's substantive enough,  
14                  then we actually do, again, a targeted outreach  
15                  where we provide additional clarification and we  
16                  brief our internal compliance officers so when  
17                  they're doing their exams they have a sense in  
18                  terms of what the policy interpretation is and  
19                  how that works.

20          Q       Okay. So if I understand correctly, are those  
21                   policy interpretations specific to a particular  
22                   issue or industry usually or are they more  
23                   generalized in nature?

24          A       (DA) No, they can be very specific to an issue  
25                   or a particular industry or a sector,

1                   absolutely. Don't forget -- sorry, the sectors  
2                   know their business in a very, very  
3                   comprehensive way, and so what at first blush  
4                   when we put out our guidance appears to be  
5                   thorough, people who are in the know and have a  
6                   granular understanding may seek some very  
7                   specific direction and we're always happy to  
8                   provide that.

9                   Q     Thank you. And then in addition to those  
10                   materials, I note just in the interest of  
11                   efficiency, I don't propose to go to the  
12                   documents, but there's reference to direct  
13                   questions and requests that FINTRAC receives  
14                   from reporting entities. Do you have any sense,  
15                   and I don't mean to put you on the spot,  
16                   Mr. Achimov, of kind of how many of these  
17                   requests FINTRAC is fielding in any given year?

18                   A     (DA) I'd have to look that up. I don't have  
19                   that handy. I could provide that as a followup,  
20                   but we do track those. And I'll say the reason  
21                   we track those is that helps us understand --  
22                   that helps us understand the types of queries  
23                   we're getting and how we refine our products. I  
24                   don't want to guess. I'm just looking at my  
25                   notes. I have a reference here that says about

1                   6,000.

2           Q     Okay. Thank you. That's helpful. And I didn't  
3                   mean to put you on the spot, but just to confirm  
4                   you do get and respond to those specific  
5                   requests as well?

6           A     (DA) Absolutely, absolutely.

7                   (BM) If I may, on our last '19/'20 annual report  
8                   there would have been 6,600 inquiries from  
9                   businesses and there would have been 357 policy  
10                  interpretations to assist with compliance that  
11                  were published.

12          Q     Thank you, Mr. MacKillop. That's helpful.

13                         So perhaps to shift gears a little bit,  
14                   there was some discussion as well in the  
15                   testimony today about high risk jurisdictions  
16                   for ML and the extent to which that is  
17                   communicated to reporting entities and  
18                   specifically here to reporting entities in the  
19                   real estate sector. And I'm not sure if this is  
20                   a question for Mr. MacKillop or maybe Ms. Ryan,  
21                   but are you aware first if there are other  
22                   government agencies that compile and produce  
23                   these lists of noncooperative or high-risk  
24                   jurisdictions for ML, and if so, does FINTRAC  
25                   direct reporting entities to any of those other

1 resources?

2 A (AR) At the first instance, Ms. Davies, the  
3 Financial Action Task Force as part of its work  
4 will flag jurisdictions formally as high risk  
5 following a process of engagement with different  
6 foreign jurisdictions. So that's absolutely a  
7 resource that we encourage reporting entities to  
8 consult as well as other information. Other  
9 publicly available information about trends.

10 Q Thank you. There was also the language used  
11 today of a risk-based approach, and I don't want  
12 to repeat testimony that you've already given  
13 earlier, but in terms of applying these  
14 indicators of suspicious activity, is there a  
15 reason that FINTRAC has adopted a risk-based  
16 approach instead of a more prescriptive  
17 approach?

18 A (DA) I'll take that question. Yes. Because  
19 risk evolves, and we look at different trends  
20 and particular risks in geographies, so it's one  
21 of the ways that we can allocate our resources  
22 appropriately. Being too prescriptive than --  
23 is next to impossible. We have 24,000 reporting  
24 entities and we can't possibly focus on every  
25 single risk that's unique to each of those

1                   entities and be prescriptive. So the risk  
2                   allows us to look at points in time, it looks at  
3                   trends, my colleague mentioned FATF direction.  
4                   It's a whole host of things that allow us to  
5                   populate a risk profile.

6                   Q    Okay. Thank you. And this should be my last  
7                   question. And, again, I can take you there, but  
8                   there is a statement in one of the documents to  
9                   the effect that -- perhaps I'll just give the  
10                  staple and ask you to comment on it -- that  
11                  FINTRAC maintains a strong examination presence  
12                  in all business sectors covered by the *PCMLTFA*  
13                  to create a deterrent effect for money  
14                  laundering through real estate purchases. And I  
15                  think you've talked about this a little bit, but  
16                  could you maybe elaborate on that interplay  
17                  between compliance in other business sectors and  
18                  the impact it might have on money laundering  
19                  through real estate, please.

20                 A    (DA) Yes. We know that in a real estate  
21                  transaction there's an ecosystem. It's not just  
22                  the real estate agent, that it's in some  
23                  instances it's a brokerage firm, it's a bank,  
24                  it's a credit union, so there are a number of  
25                  different reporting entities and sectors that

1                   actually or potentially can touch on a  
2                   transaction. So for us it's -- the easiest way  
3                   I could describe it is we don't want to leave a  
4                   back door open, if we go after the brokers, we  
5                   want to make sure that everyone in that whole  
6                   process is implicated who should be implicated  
7                   and is part of that overall examination and that  
8                   review.

9                   Q     I see. Okay. I apologize, I did say that was  
10                   my last question, but I do have one more, which  
11                   is just to finish up on this issue of AMPs,  
12                   administrative monetary penalties, that have  
13                   been discussed quite a bit, and I believe,  
14                   Mr. Achimov, you did give some evidence on this  
15                   already. But perhaps just to give you a broad  
16                   question, how does FINTRAC measure the success  
17                   of its compliance regime? So if it's not about  
18                   the volume or the value of AMPs, what is it  
19                   about?

20                   A     (DA) So there's a couple of ways I can answer  
21                   that. I mean, part of this is looking at  
22                   performance over time. We like to take a look  
23                   at reporting entities and see how they evolve,  
24                   so we track progress. So once we go in with the  
25                   first assessment, we look at what some of the

1                    deficiencies are and over time have those been  
2                    improved. So we do followup exams. That is  
3                    huge in terms of changing behaviour. We're  
4                    seeing increase in reporting, and again, that  
5                    allows us to see that we're making a difference.  
6                    And in the quality of the reporting. I have to  
7                    say that that's important. We heard in some of  
8                    the earlier questioning when we looked at the  
9                    risk assessment checklist, so poor quality is  
10                   you just have the tick marks. Improved quality  
11                   is when we go back and say that's not  
12                   sufficient; you have to do a little more than  
13                   just the tick mark and we actually see some of  
14                   the rationale come through. Then we see the  
15                   quality of the reporting improve. And that's  
16                   where, again, we work with the various real  
17                   estate associations to continue to signal what  
18                   our leading practices and what works.

19                   I also have to say that I think buy-in by  
20                   the reporting entity sectors is really, really  
21                   key. If they see themselves as part of the  
22                   regime, then by extension they feel an onus on  
23                   themselves and on their industry to report, to  
24                   have quality showcase good work that's being  
25                   done.

1 MS. DAVIS: Thank you. And thank you, Mr. Achimov  
2 and to the panel. Thank you, Mr. Commissioner.  
3 Those are all of my questions.  
4 THE WITNESS: (DA) You're welcome.  
5 THE COMMISSIONER: Thank you, Ms. Davis.  
6 Anything arising from that, Mr. Rauch-Davis?  
7 MR. RAUCH-DAVIS: No, thank you, Mr. Commissioner.  
8 THE COMMISSIONER: Thank you. Ms. Herbst?  
9 MS. HERBST: No, thank you, Mr. Commissioner.  
10 THE COMMISSIONER: Ms. Friesen?  
11 MS. FRIESEN: No, thank you.  
12 THE COMMISSIONER: And Ms. Rose?  
13 MS. ROSE: Yes, Mr. Commissioner. I have been  
14 provided with a copy of the document that  
15 Ms. Ryan was referring to, which is the  
16 professional money laundering guidance, and I  
17 believe that we could potentially enter that as  
18 an exhibit now, so I propose to do so if  
19 possible. Madam Registrar, if we could have  
20 that on the screen, please.  
21 THE REGISTRAR: Sorry, just give me one second,  
22 please. Sorry, Ms. Rose. Is that the email --  
23 is that the document that you sent by email?  
24 MS. ROSE: I'm instructed by my colleague Ms. Patel  
25 that there is an operational brief that has now



1                   been added to your folder, Madam Registrar. And  
2                   it is an operational brief with respect to  
3                   professional money laundering. And --

4           THE REGISTRAR: Okay. Yes. I have it.

5           MS. ROSE: This has not been provided to participants  
6                   and so I would seek leave and offer opportunity  
7                   for objections to be introducing this document  
8                   as evidence today.

9           THE COMMISSIONER: All right. Perhaps what we should  
10                   do, then, is just mark it conditionally again  
11                   and give the participants an opportunity to  
12                   review the document and if they wish to make  
13                   submissions opposing its admission, they may do  
14                   so. And in the meantime, probably A, shouldn't  
15                   be livestreamed, and B, won't be posted on the  
16                   website of the commission until that has  
17                   happened. So we'll mark this provisionally as  
18                   the next exhibit, Madam Registrar.

19           THE REGISTRAR: Yes, exhibit 744.

20                   **(SEE EXHIBIT 346)**

21           THE COMMISSIONER: All right.

22           MS. ROSE: Okay. And this is the document that you  
23                   were referring to earlier, Ms. Ryan?

24           A        (AR) It is, yes.

25           MS. ROSE: Thank you.

1 THE COMMISSIONER: All right. Thank you, Ms. Rose.  
2 I'd like to thank the members of the panel,  
3 Ms. Achimov, Mr. MacKillop and Ms. Ryan. Your  
4 engagement with the commission has been very  
5 helpful and will very much help us to sort  
6 through many of the issues that you've been  
7 addressing at the end of the commission. So I'm  
8 grateful to all of you for your time and  
9 attention to the questions which were put to  
10 you. You're excused now from any further  
11 testimony.

12 **(WITNESSES EXCUSED)**

13 THE COMMISSIONER: And I think, Ms. Rose, we're now  
14 in a position to move to the next panel, and  
15 we'll take 15 minutes to engage with them. I  
16 think that's the game plan, is it?

17 MS. ROSE: That's my understanding. I believe  
18 participants have been willing to forego the  
19 30-minute break in interest of time and having a  
20 15-minute break instead at this juncture.

21 THE COMMISSIONER: All right. So either no lunch or  
22 a very quick lunch. Thank you. 15 minutes,  
23 then.

24 THE WITNESS: (BM) Thank you, Commissioner.

25 THE REGISTRAR: This hearing is stood down for

1 15 minutes until 12:50 p.m.

2 **(PROCEEDINGS ADJOURNED AT 12:35 P.M.)**

3 **(PROCEEDINGS RECONVENED AT 12:50 P.M.)**

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

6 THE COMMISSIONER: Thank you, Madam Registrar. Yes,  
7 Ms. Patel.

8 MS. PATEL: Thank you, Mr. Commissioner. Just as a  
9 matter of housekeeping at the beginning, I'm  
10 still going to strive to have this panel's  
11 evidence concluded by 2:30. I have canvassed  
12 the witnesses' availability, however, and I'm  
13 advised they're available until 3 o'clock if it  
14 comes to it and I would just ask that if any  
15 participant has any issue that they -- with that  
16 potential or I suppose any staff member if you  
17 could send me a message through the chat  
18 function, please.

19 THE COMMISSIONER: Thank you.

20 MS. PATEL: Mr. Commissioner, the next panel of  
21 witnesses is four witnesses from the Land Title  
22 and Survey Authority and, Madam Registrar, I  
23 believe that three will affirm and one will  
24 swear.

25 THE REGISTRAR: Would each of you please state your

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)

1 full name and spell your first name and last  
2 name for the record. Let's start with  
3 Mr. Blaschuk.

4 THE WITNESS: (LB) Larry Blaschuk, L-a-r-r-y,  
5 Blaschuk, B-l-a-s-c-h-u-k.

6 THE REGISTRAR: Thank you. Mr. Danakody.

7 THE WITNESS: (RD) Reuben Danakody, R-e-u-b-e-n  
8 D-a-n-a-k-o-d-y.

9 THE REGISTRAR: Mr. MacDonald.

10 MS. CHEWKA: Carlos MacDonald, C-a-r-l-o-s  
11 M-a-c-D-o-n-a-l-d.

12 THE REGISTRAR: And Mr. Steves.

13 A (GS) Gregory Steves, G-r-e-g-o-r-y S-t-e-v-e-s.

14 THE REGISTRAR: Thank you.

15 **LARRY BLASCHUK, a**  
16 **witness called for the**  
17 **commission, sworn.**

18 **REUBEN DANAKODY, a**  
19 **witness called for the**  
20 **commission, affirmed.**

21 **CARLOS MacDONALD, a**  
22 **witness called for the**  
23 **commission, affirmed.**

24 **GREGORY STEVES, a**  
25 **witness called for the**

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
Exam by Ms. Patel

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**commission, affirmed.**

THE REGISTRAR: Thank you very much.

MS. PATEL: Madam Registrar, could you please pull up  
the CV of Mr. Blaschuk.

**EXAMINATION BY MS. PATEL:**

Q Mr. Blaschuk, do you recognize this as the CV  
you provided to the commission?

A (LB) I do.

Q All right. And your current role is Registrar  
of Land Titles, a role that you've held since  
2008; is that right?

A (LB) Correct.

Q Can you tell the Commissioner just briefly what  
the registrar is and what your responsibilities  
are?

A (LB) The registrar is a statutory  
decision-making role that's defined in the *Land  
Title Act* responsible for maintaining the  
integrity and reliability of the BC land title  
register, and together with the employees of the  
LTSA operate the land title offices in the  
province.

Q Thank you. And when you say it's a  
decision-making role, what are the types of  
decisions that you [indiscernible] to make?

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
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1           A       (LB) Everything that comes into the applications  
2                    received into the land title office is examined  
3                    by staff reporting through to me and all the  
4                    statutory decision making that goes into  
5                    examination and then the positioning of that  
6                    information into the register is ultimately done  
7                    under my direction.

8           MS. PATEL: Before we take this down,  
9                    Mr. Commissioner, I think that we're at  
10                   exhibit 745. If we could please have this  
11                    marked.

12           THE COMMISSIONER: Yes, very well. 745.

13           THE REGISTRAR: Exhibit 745.

14                   **EXHIBIT 745: Curriculum Vitae of Larry Blaschuk**

15           MS. PATEL: Thank you, Madam Registrar. If you could  
16                    please take that down and if you could bring up  
17                    Mr. Danakody's CV.

18           Q       Mr. Danakody, do you recognize this as the CV  
19                    that you provided to the commission?

20           A       (RD) I do.

21           Q       And you are -- currently you hold the role of  
22                    Director and Administrator with -- of the Land  
23                    Owner Transparency Registry with the LTSA; is  
24                    that correct?

25           A       (RD) That's correct.

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
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1           Q     Thanks, and just -- I'll get this out of the way  
2                   before we get much further because there's a lot  
3                   of abbreviations I'll be using.  LTSA -- when I  
4                   say LTSA, everybody will understand I mean the  
5                   Land Title and Survey Authority, and when I  
6                   refer to the LOTR or L-O-T-R, I'll be referring  
7                   to the Land Owner Transparency Registry.

8                                 And can you please describe for the  
9                   Commissioner, Mr. Danakody, what your  
10                  responsibilities are as the Director and  
11                  Administrator of the LOTR?

12           A     (RD) Certainly, Ms. Patel.  So as the  
13                  Administrator of *LOTA*, I'm responsible for  
14                  administering the statute, the new statute,  
15                  which is the *Land Owner Transparency Act*, and as  
16                  the Director also responsible for the overall  
17                  operation of the registry and source delivery of  
18                  all aspects of this new registry.  As far as  
19                  that statutory role is concerned, it really  
20                  encompasses administering all aspects of *LOTA*,  
21                  including establishing different forms and  
22                  manners of which how applications and  
23                  disclosures that would be filed into the  
24                  registry.  Then also obligated under the act to  
25                  ensure that the information that's required

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
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1 under the act is provided to the public  
2 establishing a manner in which those searches  
3 can be made to the public and to authorize  
4 regulators and law enforcement, et cetera.

5 The reporting obligation primarily for the  
6 Administrator is to the Minister of Finance of  
7 the government of British Columbia and of course  
8 just the ongoing provision of information,  
9 education and various customer support services  
10 and materials to the public and to legal  
11 professionals.

12 Q Of course we'll come back to the registry, but  
13 if you could just remind us where we are or  
14 where you are in terms of the rollout of the  
15 registry. I understand there was a delay due to  
16 COVID. So if you could just remind us where we  
17 are temporally in implementation?

18 A (RD) Certainly. *LOTA* got passed in May 2019.  
19 And we started the development and build of the  
20 registry since then. Due to the pandemic in  
21 spring of last year, the delivery of *LOTA* was  
22 delayed. One of the key requirements was of  
23 course for regulation to be passed to move *LOTA*  
24 into force. And there were also certain  
25 statutory amendments to *LOTA* that were pending.



Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
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1                   Those statutory amendments to *LOTA* were passed  
2                   in August 2020. And subsequently in  
3                   September 17, 2020, *LOTA* regulations were passed  
4                   which then specified that *LOTA* was to move into  
5                   force for filing November 30th, 2020.

6                   So *LOTA* has been in operational since  
7                   November 30th, 2020, and we have been taking in  
8                   filing of all of the disclosures required in  
9                   *LOTA*. The only thing that is still spending is  
10                  the November -- April 30th, 2020 one date which  
11                  is when the search of *LOTA* will become in force  
12                  and one final date, statutory date as set out in  
13                  regulation, November 30th, 2021 where  
14                  pre-existing registered owners who are reporting  
15                  bodies, which I can clarify later, will be  
16                  required to file transparency reports.

17                  MS. PATEL: Thank you. And we'll certainly return to  
18                  those details. Mr. Commissioner, if we could  
19                  please mark Mr. Danakody's CV as exhibit 746.

20                  THE COMMISSIONER: Yes, very well. 746.

21                  THE REGISTRAR: Exhibit 746.

22                                 **EXHIBIT 746: Curriculum Vitae of Reuben**  
23                                 **Danakody**

24                  MS. PATEL:

25                  Q     I'll just note, Mr. Danakody, of course you've

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
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1                   only been with the administrator of the *Land*  
2                   *Owner Transparency Act* or *LOTA* since 2019  
3                   because it's very new itself and prior to that  
4                   you had experience working for the city of  
5                   Edmonton and also were -- had a long stint with  
6                   the BC Assessment Authority; is that correct?

7           A       (RD) Correct. The only one clarity I would like  
8                   to provide there in so far as the LTSA is  
9                   concerned, my appointment with the LTSA as a  
10                  director commenced in April 2019 -- sorry,  
11                  August 2019. My official appointment as  
12                  administrator of *LOTA* was on November 30th,  
13                  2020, when *LOTA* became into force and that  
14                  appointment was made by the CEO of the LTSA.

15           MS. PATEL: Thanks for that. We can take this down  
16                  now, Madam Registrar, and if we can please pull  
17                  up Mr. MacDonald's CV.

18           Q       Mr. MacDonald, do you recognize this as the CV  
19                  that you provided to the commission?

20           A       (CM) I do, yes.

21           Q       All right. And your current role is, as we see  
22                  here, the Director of Land Titles, a position  
23                  that you've -- or a role that you've held since  
24                  2019; is that right?

25           A       (CM) That's right.

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
Exam by Ms. Patel

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1 Q And prior to that you were Registrar of Land  
2 Titles in The Victoria Land Title Office?

3 A (CM) That's correct.

4 Q Okay. And if you can just take this opportunity  
5 to describe to the Commissioner the role and  
6 responsibilities of the Director of Land Titles.

7 A (CM) So the director role is a statutory role as  
8 well set out in the *Land Title Act*. It's  
9 primarily a policy role. Historically we had  
10 seven -- "we" being BC -- had seven land title  
11 offices each with their own registrar who  
12 managed and ran the offices. And so the  
13 director spent a fair bit of time trying to  
14 regularize the practice amongst the various  
15 offices. Now that we have one registrar, that's  
16 a lot easier job for me.

17 In addition to that there are provisions in  
18 the act that give the director the authority to  
19 set out forms, for example, to provide more  
20 details than are set out in the *Land Title Act*.  
21 The *Land Title Act* is very prescriptive, but  
22 there are details to fill in and the director  
23 plays that role.

24 MS. PATEL: Thank you. Mr. Commissioner, I'd ask  
25 that this CV be marked as exhibit 747, please.

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
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1 THE COMMISSIONER: Very well. 747.

2 THE REGISTRAR: Exhibit 747.

3 **EXHIBIT 747: Résumé of Carlos MacDonald**

4 MS. PATEL: Madam Registrar, we can take that down.

5 And if we could bring up Mr. Steves' CV.

6 Q Mr. Steves, do you recognize this as the CV that  
7 you provided to the commission?

8 A (GS) I do.

9 Q And your current position is the Vice President  
10 of Policy and Legal Services for the LTSA, a  
11 role that you've just fairly recently come into  
12 in 2020; is that right?

13 A (GS) That's correct. In August of 2020.

14 Q And can you just describe for the Commissioner  
15 what your responsibilities in that role are?

16 A (GS) Sure. Primarily responsible for working  
17 with our key statutory decision makers, who  
18 would be the Director of Land Titles and the  
19 Surveyor General, to make sure that they have  
20 clear strategic direction, an executive  
21 direction from LTSA and then work closely with  
22 government just to ensure that we're working in  
23 the public interest and that the work that LTSA  
24 is doing is aligned with the expectations of  
25 government.



Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
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1 collection and management of data. But I wanted  
2 to ask the panel to start out by orienting us a  
3 little bit about the role of the Land Title and  
4 Survey Authority, its statutory and regulatory  
5 context. And I thought I would first call on  
6 Mr. MacDonald to give us a brief overview of  
7 that context.

8 A (CM) Sure. So the LTSA is a statutory  
9 corporation. We are independent from  
10 government. We were incorporated in 2005  
11 pursuant to the *Land Title and Survey Authority*  
12 *Act*. Our mandate and responsibilities are set  
13 out in that act in section 4, and the two  
14 responsibilities that are primarily important  
15 today are managing and maintaining the land  
16 title and survey systems of BC and more recently  
17 administering *LOTA* and *LOTR*. We are  
18 self-funded, so we derive all of our income from  
19 fees that are collected on the land title or  
20 *LOTR* side as well as -- there are a couple of  
21 other fees, but it's primarily land title fees.  
22 And pursuant to our operating agreement with the  
23 province, those fees are split. So we keep -- I  
24 think it's about 45 percent of all fees  
25 collected and the balance goes back to the

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
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1 province.

2 We're not for profit, so all income that  
3 isn't used for operating expenses goes back into  
4 the system to improve our systems.

5 Q And --

6 A (CM) Being a land title guy, it's hard for me  
7 not to want to go into detail about the Torrens  
8 system. I won't do that, but I'll just make a  
9 couple comments. We are a Torrens system and  
10 one of the hallmarks of a Torrens system is the  
11 conclusiveness of its register. So that allows  
12 everyone to rely on it, to trust it. It also  
13 allows for quite efficient transactions when it  
14 comes to land titles. And so that is  
15 essentially what we're looking -- the lens  
16 through which we see the world is through a  
17 Torrens view.

18 Q And I'll indulge your desire to talk about  
19 Torrens just for a moment.

20 And, Madam Registrar, if you could pull up  
21 document FSA0008.

22 Mr. MacDonald, do you recognize this as a  
23 PowerPoint presentation that -- it bears your  
24 name. Did you prepare this?

25 A (CM) I did. This was a presentation that was

1 given to -- I believe it was the BC Canada  
2 working group. That was my first exposure to  
3 that group, and we were asked to provide an  
4 overview of what the LTSA does.

5 MS. PATEL: Okay. And, Madam Registrar, if we could  
6 go to page 9 of this PDF.

7 Q And I just -- without getting into a long  
8 exposition on the Torrens system, I thought  
9 maybe following up on the comment you just made  
10 if you could just refresh those of us who are  
11 aren't so familiar as we ought to be as to what  
12 the Torrens principles are?

13 A (CM) Real property law was a while back.

14 So four fundamental principles here. One is  
15 in the feasibility, which just means that what  
16 you see is what you get. Once someone is  
17 registered as the owner of an interest in land,  
18 once it's in our register, that interest is safe  
19 from attack. There are always exceptions. If  
20 you are a party to a fraud, for example. Those  
21 exceptions are set out in section 23 of our act.  
22 But indefeasibility is one of the primary  
23 principles of the Torrens system. The mere  
24 principle just stands for the fact that the  
25 title should accurately reflect all interests in



Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
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1 land associated with that -- with that title.

2 And the curtain principle, if you can think of  
3 being on stage and a curtain coming behind you,  
4 folks don't have to worry about who owned the  
5 property before the person they're thinking of  
6 buying the property from like they do in a  
7 registry deed system where you have to go back  
8 through the chain of title because your title is  
9 only as good as the title of the person you got  
10 it from. In a Torrens system, once you're the  
11 owner and that's reflected on the title,  
12 everyone can rely on that.

13 Sometimes we get it wrong. There are two  
14 main ways that there can be an error entered  
15 into the register. There's administrative  
16 errors, so that's where the registrar or -- the  
17 registrar never makes mistakes, but his staff  
18 may inadvertently make a mistake that results in  
19 an interest being dropped. The other one is  
20 what we call a system error and the system  
21 refers to overall land title system. Typically  
22 those are frauds. So we'll have someone from  
23 outside of the LTSA who commits a fraud and  
24 managed to get an interest past and into the  
25 register. Should that happen and an innocent

Larry Blaschuk (for the commission)  
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1 party is deprived of their interest in land, we  
2 have an assurance fund. We actually have two  
3 assurance funds. There's the LTSA assurance  
4 funds which covers losses arising from the time  
5 the LTSA came to be and forward, and the other  
6 assurance fund which covers any losses for  
7 things that happened before the LTSA was around.

8 So the benefit to a Torrens system, again,  
9 is -- there's no having to wonder if you've got  
10 the right person. If they're on the register,  
11 then you can rely on that. And as a result you  
12 don't have to run around doing a lot of research  
13 to make sure that you have the right person or  
14 that your interest is -- or the interest you're  
15 seeking to purchase, for example, is validly  
16 held by the current owner.

17 Q Okay. And this will seem like a very obvious  
18 point to make at this juncture, but we'll return  
19 to it: the register, the land title register is  
20 a register of land, not of persons; correct?

21 A (CM) That's correct. It's the register of  
22 indefeasible titles.

23 MS. PATEL: Madam Registrar, I'm done, but perhaps,  
24 Mr. Commissioner, we could mark this as  
25 exhibit 749.

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
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1 THE COMMISSIONER: Very well. 749.

2 THE REGISTRAR: Exhibit 749.

3 **EXHIBIT 749: Presentation - The Land Title and**  
4 **Survey Authority of BC - February 26, 2020**

5 MS. PATEL: Okay.

6 Q And before we leave the overview of what the  
7 Land Title and Survey Authority does, perhaps  
8 can I just have you confirm, Mr. MacDonald, the  
9 registries that are operated, again, by --  
10 through the LTSA?

11 A (CM) So we've got the land title register, we've  
12 got the Land Owner Transparency Registry, *LOTR*.  
13 The LTSA also built -- and I'm a land title  
14 fellow, so I know about all land title stuff  
15 that the LTSA does. If you hear me speaking of  
16 things other than land titles, I'm approaching  
17 the fringes of my knowledge. But CSAIR, the  
18 Condo and Strata Assignment Integrity Register,  
19 was built by the LTSA as well, but it is -- it  
20 was built for the province.

21 Q It's operated by somebody else?

22 A (CM) That's right.

23 Q And I just wanted to return for a moment to the  
24 issue of the funding. You stated you derive all  
25 your revenues from fees; is that right?

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
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1 A (CM) That's right.

2 Q Okay. And 45 percent of those revenues go to  
3 the provincial government?

4 A (CM) I think it's the reverse. We keep  
5 45 percent and 55 percent goes to government.

6 Q I'm sorry. And so the takeaway from that is, I  
7 just want to confirm, that the LTSA must operate  
8 on a budget of its 45 percent of revenues that  
9 it collects?

10 A (CM) That's correct.

11 Q Okay. My next question -- and I'm going to  
12 direct it again to you, Mr. MacDonald, but you  
13 might choose to refer it on, what information  
14 and -- what information services does the LTSA  
15 provide to government and government agencies?

16 A (CM) Well, I'll take a first stab at that.  
17 Generally in the way of taxation we provide  
18 information, for example with respect to the  
19 spec tax. So we provide a list of all owners  
20 who are within the jurisdiction where the spec  
21 and vacancy tax applies. We provide information  
22 services to taxation authorities, so to local  
23 government for the purpose of assessment. We  
24 provide that same information to BC Assessment.  
25 We provide -- there's a -- I should say there

Larry Blaschuk (for the commission)  
Reuben Danakody (for the commission)  
Carlos MacDonald (for the commission)  
Gregory Steves (for the commission)  
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1 are probably well over a dozen. Just off the  
2 top of my head there's for water licenses, I  
3 know we provide information. Those are the ones  
4 that I can think of off the top of my head.

5 Q And I invite Mr. Steves, you look like  
6 you're ready to --

7 A (GS) I was just going to add that the province  
8 is by and large exempt from any fees for  
9 accessing any of the information held in the  
10 land title registry, so they can and do search  
11 all of the records held by the agency just like  
12 the general public might.

13 Q Thank you. And just touching on one thing you  
14 mentioned, the BC Assessment Authority,  
15 Mr. MacDonald. What is it? Can you just  
16 explain at a general level what is the  
17 information that the BC Assessment Authority is  
18 charged with maintaining that the LTSA does not?

19 A (CM) Well, I can only speak to what the LTSA is  
20 responsible for. BC Assessment, my  
21 understanding is they will have details like  
22 what type of property is this, is it commercial,  
23 residential. We don't have that in our  
24 register. I mean, they're designed, as the name  
25 implies, for the purpose of assessment. We keep

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1 track of who owns what legal interest for  
2 privately held land, and we provide those  
3 details to BC Assessment so that they can do  
4 their work.

5 Q Okay. And when it comes to land values, and I  
6 might draw Mr. Danakody here for his experience  
7 with both the BC Assessment. When it comes to  
8 land values, the LTSA in registering a transfer  
9 of title will register the reported transaction  
10 value; correct? The reported sale value?

11 A (RD) That's right.

12 Q Okay. And in contrast, what's the information  
13 as to value of property that's held by the BC  
14 Assessment? And, Mr. Danakody, I'll ask you.

15 A (RD) I'll just respond just based on my  
16 experience, Ms. Patel, with BC Assessment. So  
17 the reported value in BC -- the assessment role  
18 really reflects the actual market value of a  
19 subject property as at a point of time, which is  
20 typically July 1st of any given year.

21 Q Thank you. Turning to the land titles register,  
22 what is the information that the LTSA collects  
23 for the purposes of maintaining the land title  
24 register, and I'll -- I know that this can  
25 depend -- this depends on the type of

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1 transaction that's involved, but turning to the  
2 most basic information about title information,  
3 maybe Mr. Blaschuk, could you address that?

4 A (LB) Sure. Thanks, Ms. Patel. The title, the  
5 information that appears on a title is the  
6 registered owner's name, an occupation, an  
7 address for service delivery of notices, legal  
8 descriptions, parcel identifier, a list of the  
9 charges, mortgages, rights of way, that sort of  
10 thing. The owners of those charges are listed  
11 on title with the serial number for the filing  
12 of the application and the date and time that  
13 that was received into our system. That appears  
14 on all titles. There is legal notations that  
15 are on title. There are pending applications  
16 are also noted on a title. So if an application  
17 is received into my office, it's immediately  
18 marked up on the appropriate parcel of land. It  
19 is then at some point 48 hours, sometimes  
20 immediately, 48 hours, or within our mandated  
21 turnaround times it's examined by an examiner  
22 and if it meets all the applicable legislated  
23 requirements, it's then entered into the  
24 register as a registered charge and no longer a  
25 pending charge.

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1 Q And when it comes to information about the  
2 owner, where does that information come from?

3 A (LB) It comes from information that's provided  
4 to the office via application. So for ownership  
5 transfers those are usually found the large  
6 majority of the time on a Form A freehold  
7 transfer. It's information that's provided by  
8 the filing by the applicant. Generally a  
9 professional lawyer, a notary public, that files  
10 that. Sometime it's the public themselves that  
11 provides the information. And they're in  
12 fielded forms, so the information contains the  
13 registered owner's name, as I said before, and  
14 occupation, or if it's a corporation, its  
15 incorporation number and an address.

16 Q And for the accuracy of that information, is the  
17 LTSA depending on the filer?

18 A (LB) It is depending on the filer and the legal  
19 professional that's involved with the  
20 preparation of the form. And 95 percent plus of  
21 our applications are received electronically,  
22 and so there's a digital certification that  
23 appears on each one of those from a lawyer or  
24 notary in the case of transfers certifying  
25 information, the requirements that are found in



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1                   the *Land Title Act* as to witnessing of documents  
2                   and meeting the requirements that we've got for  
3                   offers of certification.

4                   Q     And can you confirm for electronic registration,  
5                   is it only lawyers and notaries who are able to  
6                   perform that service, access the electronic  
7                   service?

8                   A     (LB) For the most part. But I'll let Carlos  
9                   answer this.

10                                 (CM) Yes. So for transfers it's largely  
11                   notaries. There's also a special category of  
12                   subscribers called ASR members, authorized  
13                   subscriber register members. So they tend to  
14                   be -- well, they don't tend to be -- they are  
15                   commissioners for taking affidavits within  
16                   certain regulated industries as well as  
17                   statutory officers. So employees of all levels  
18                   of government who have under legislation the  
19                   authority to submit applications to the land  
20                   title office.

21                   Q     And when the -- the information, when it's --  
22                   the data that's collected, I'd like to ask a few  
23                   questions about how it's held by the LTSA -- and  
24                   we'll get in a moment to how it's publicly  
25                   searchable and what is publicly searchable, but

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1                   for the moment just from an internal  
2                   perspective, how is that information held by the  
3                   LTSA and what type of -- my followup question to  
4                   that would be what type of internal  
5                   searchability does the LTSA have with respect to  
6                   that data? So for the first part of it, I think  
7                   my question is directed at Mr. Blaschuk.

8                   A       (LB) Actually, I'm going to defer to Carlos on  
9                   this one because he was -- prior to being the  
10                  director was our registrar of e-business, so  
11                  he's got a better knowledge of this than I do.  
12                  (CM) That's a -- that's not a statutory  
13                  position. That was a name we made up. So in  
14                  answer to the question, it depends -- it changes  
15                  with time. And I'm not going to get this  
16                  precisely right because I'm not a technical  
17                  person. Information comes across our -- I'll  
18                  start with electronically submitted  
19                  applications. So for electronically submitted  
20                  applications, the information is for the most  
21                  part all in fielded forms. Under our legacy  
22                  system, they're EFS PDF forms. In our new web  
23                  filing system they're web filing forms. But  
24                  they all -- folks fill in fields with all of the  
25                  data. That comes across the virtual front

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1 counter, and at that point all of that  
2 information is available and potentially  
3 searchable.

4 After -- I believe it's roughly around  
5 three months, some of that information is  
6 stripped. And so the Juricert certificate is  
7 one of the things that is removed. You'll still  
8 see it, but the 1s and zeros that tell you  
9 things about it, those are stripped. After a  
10 year the form itself is -- the PDF is what we  
11 call flattened, and so what you're left with is  
12 just an image of that form. So it would --  
13 it's -- all of the fields are no longer  
14 searchable.

15 That said, before we flatten the PDF, we  
16 pull the information necessary to populate the  
17 register of indefeasible titles. So, for  
18 example, the registered owners, their addresses,  
19 their occupation, if there's a -- if it's a  
20 mortgage, who's the lender. Those details are  
21 available and are searchable -- I won't  
22 differentiate between publicly or not at this  
23 point, but they are available for search. Yeah,  
24 I'll leave it at that.

25 For hard copy forms, it's a little

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1 different because we don't -- and by "hard copy"  
2 I mean paper forms. Those only make up 4 to  
3 5 percent of everything that we receive. They  
4 have to be marked up against the title by a  
5 human, and so only the details that are  
6 necessary to populate the register are ever  
7 available to be searched.

8 Q Thank you.

9 A (CM) I'll just add for transfers and for  
10 mortgages, the director of land titles has  
11 what's called required e-filing, so with very  
12 limited exceptions, all transfers and all  
13 mortgages must be e-filed. I think we've  
14 received -- in the last fiscal we may have  
15 received and accepted 200-ish Form A transfers  
16 in hard copy. Electronically we probably  
17 received somewhere between 175,000 to 200,000,  
18 in that range.

19 Q Just going back to the issue of the receipt of  
20 information about the owner of a property, can  
21 you confirm that the LTSA doesn't have any role  
22 in verifying that information itself?

23 A (CM) That -- that is correct. I'm just thinking  
24 about companies. I think if there's a company  
25 involved as a transferee or transferor, we will

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1 search the corporate registry to confirm that  
2 that is in fact a company and that it's in good  
3 standing. We have access to the BC corporate  
4 registry. The Ministry of Finance, the BC  
5 Ministry of Finance provides us with access to a  
6 list of financial institutions, and I believe we  
7 have access as well to federal incorporated  
8 companies. If it's a foreign company, we don't  
9 have the ability to do any type of verification.  
10 For individuals, we don't -- we don't verify.

11 Q And there's no -- similarly, is there any  
12 requirement that an owner present their  
13 information consistently to the land title  
14 office on registration of one property? For  
15 example, somebody purchases a property and  
16 inputs their name in a certain way. Are they  
17 required -- is there any requirement that they  
18 input their name in the same way if they  
19 purchased a second property?

20 A (CM) Well, they need to be consistent. So with  
21 the first property, if they then try to sell  
22 that property and use a different name or a  
23 different variation of the name, it will get  
24 bounced because we do check for that.

25 There are folks who may use one name that

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1                   they have on their passport for one property and  
2                   then say a second name derived from their  
3                   driver's licence that might be slightly  
4                   different for the second property. And in that  
5                   case, we wouldn't know that this first person  
6                   was also the second person. The only time that  
7                   might come up is when they decide that they want  
8                   to give a power of attorney to their attorney  
9                   and the attorney's -- the donor's name may only  
10                  have one of those names, and so when the  
11                  attorney goes to use it for the second property  
12                  where the names don't match, we'll catch that.  
13                  We do allow folks to have AKA without the  
14                  donors. If they've already got two properties  
15                  registered in slightly different names, we'll  
16                  allow them to file a power of attorney that  
17                  covers both those names.

18                  A     (LB) And while we don't verify identities of  
19                  transferors or transferees, the legal  
20                  professional, the officer that's doing the  
21                  certification on our forms, that's part of the  
22                  work that they do, and they're required to do  
23                  under statute, and then we are entitled to rely  
24                  on that. So they would confirm the identity.  
25                  They would have the documentation to back that

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1 up by, say, the know your client guidelines from  
2 the law society or the notary society. But we  
3 don't see that; we're entitled to rely on that  
4 information, on the certifications that they  
5 make.

6 Q And would the same be true of the name of a  
7 lender on a mortgage form?

8 A (LB) Those are a bit more stringent because  
9 they've got -- well, in terms of private lender,  
10 that sort of thing, sure, the same thing would  
11 hold true there. But in terms of institutional  
12 lenders, financial institutions, those names,  
13 they'll get bounced if they're not the correct  
14 names that are being used.

15 Q Thank you. Going to -- helpfully you provided  
16 the commission with what I'll refer to as a  
17 collection of demonstration documents. And I'm  
18 going to pull these up, but I think I'll start  
19 by asking just for a member of the public who  
20 wants to search land title information, what is  
21 available to them through the LTSA website?

22 A (CM) So if they're a member of the public -- we  
23 have two different ways. We have what's called  
24 a myLTSA enterprise account and a myLTSA  
25 explorer account. The enterprise account is

1 sort of the full meal deal. That allows you to  
2 both search and file with us. And the search  
3 functions follow the act, section 377(4), so you  
4 can search by an individual's name, a document  
5 number, so for a specific document. You can  
6 search for a parcel with the PID, and I feel  
7 like I'm missing one. Pending applications.  
8 (BM) The other one is pending applications.

9 Q And with reference to searching an owner. If a  
10 person were to search a particular name, what  
11 type of ownership interests would come up in the  
12 results?

13 A (CM) Certainly registered owners in terms of the  
14 title, charge owners. I'm not sure about lien  
15 claimant.

16 Q So --

17 A (CM) Or judgment orders. But certainly charge  
18 holders and title donors.

19 Q And what would charge holders include?

20 A (CM) Mortgages, statutory rights of way,  
21 easements. There's -- there are probably --  
22 there are dozens of different types of charges.  
23 Rent charges, section 219 covenants.

24 (LB) Any charge where they would have  
25 appeared as a party, as a transferor or



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1                   transferee on it will show up in a name search  
2                   conducted on their name.

3           Q        Would a name search also turn up certificates of  
4                   pending litigation?

5           A        (CM) I don't know.

6                   (LB) I don't know the answer to that  
7                   question either.

8           Q        We'll leave that for the moment.

9                   Madam Registrar, I'm going to go through  
10                  rather quickly some of these mock-up documents  
11                  that you've helpfully provided. Madam  
12                  Registrar, if you could pull up the  
13                  document, state of title certificate. I think  
14                  it's just called STC in the title. All right.  
15                  Now, Mr. MacDonald, I understand that you  
16                  prepared these mock-ups for us; is that right?

17          A        (CM) Yes. I had these prepared and had them  
18                  populated with sort of dummy data, but the  
19                  format matches the real thing.

20          Q        All right. And is this -- this document that  
21                  we're looking at, the state of title  
22                  certificate, is this a document that a member of  
23                  the public could pull from the LTSA website?

24          A        (CM) Yes.

25          Q        Okay. And I just wanted to note the types of

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1 information that is provided on the state of  
2 title certificate, so it includes the  
3 application date and there, underneath in the  
4 middle of the form -- Madam Registrar, if you  
5 can scroll down a little bit -- you've got the  
6 registered owner/mailing address, which is a  
7 field that you've just described. And then I  
8 wanted to scroll down to the next page. Can you  
9 just tell us about -- very briefly about not --  
10 I'm not so much interested in the legal  
11 notations but in what's available under  
12 "charges, liens and interest."

13 A (CM) Sure. So keeping in mind that the purpose  
14 of an indefeasible title is to accurately  
15 reflect all interests associated with that  
16 title. That's essentially what this does. So  
17 some of these are charges, like an easement, the  
18 mortgage, the statutory right of way. Others  
19 like a lien, a claim of lien hasn't been proven,  
20 so it's a variation from -- a bit different from  
21 a charge. We've got a certificate of pending  
22 litigation which is sort of almost a notice.  
23 It's saying, you know, I've -- someone has  
24 started an action and is claiming an interest in  
25 land or that is somehow associated with this --

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1 with this land.

2 MS. PATEL: I'm not going to linger here. Madam  
3 Registrar. If we could have this --  
4 Mr. Commissioner, if we could have this marked  
5 as 750, and, Madam Registrar, then we can take  
6 it down.

7 THE COMMISSIONER: Yes, that's fine.

8 THE REGISTRAR: Exhibit 750.

9 **EXHIBIT 750: Mock-up - State of Title**  
10 **Certificate**

11 MS. PATEL: And then I'm going to ask you, Madam  
12 Registrar, if you could next pull up the Form A.

13 Q And, Mr. MacDonald, again, this is a mock-up  
14 that you've provided to us. And if you could  
15 just please explain briefly what the form A is  
16 and when it's used.

17 A (CM) Sure. So a Form A freehold transfer is the  
18 transfer document. Item 1 is typically the  
19 applicant, so this is the person who's  
20 submitting the application, not the -- not the  
21 person who is acquiring the interest  
22 necessarily. And that is usually a law firm.  
23 It could be a registry agent as well.

24 Item 2 is the description of land, so we  
25 have both the PID, the permanent identifier, and

1                   the legal description. Market value is -- as  
2                   the name suggests, it's what they believe to be  
3                   the market value, consideration as what they  
4                   paid for it. The transferor is the person who  
5                   is giving up the interest. The type of interest  
6                   set out in number 5. The transferees are the  
7                   folks who are acquiring the interest. We also  
8                   require their occupation and address. And if  
9                   there are -- if there's more than one, then in  
10                  this case it's noted that they're holding them  
11                  in joint tenancy as opposed to tenancy in  
12                  common.

13                  Q     I wanted to ask you a question about the amount  
14                        shown at number 3, consideration. Where does  
15                        the number at number 3 come from, the  
16                        information as to consideration paid?

17                  A     (CM) So I'm taking off my director of land  
18                        titles hat and putting on my very old real  
19                        estate lawyer hat. Typically that would come  
20                        from the contract of purchase and sale. If it's  
21                        an arm's length transaction. It's not uncommon  
22                        to see a difference between the market value and  
23                        consideration. If, for example, mom and dad are  
24                        putting their adult kid on title for estate  
25                        planning purposes, for example, where the

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1 consideration might be a dollar or a dollar and  
2 love and affection. Whereas the market value,  
3 again, back in the day when we were required --  
4 when I was required to fill that in, I would be  
5 asking my clients what the market value was. If  
6 they weren't sure, we might look at the BC  
7 assessment, the assessed value, or if there had  
8 been a recent sale, we might rely on that  
9 number.

10 Q So the -- both of those numbers, market value  
11 and consideration, come from the applicant?

12 A (CM) Yes.

13 Q And just with respect -- one last question on  
14 consideration: does the LTSA have access to the  
15 transaction documents, the agreement of purchase  
16 and sale between the transferor and the  
17 transferee?

18 A (CM) We don't.

19 MS. PATEL: If we could mark this, please, as  
20 exhibit 751, Mr. Commissioner.

21 THE COMMISSIONER: Very well.

22 THE REGISTRAR: Exhibit 751.

23 **EXHIBIT 751: Mock-up - Form A - Freehold**  
24 **Transfer**

25 MS. PATEL: And the next document I want to pull up

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1 is the one, the Form B, please, Madam Registrar  
2 Mortgage.

3 Q Again, Mr. MacDonald, can you confirm that this  
4 is a mock-up that you're prepared for the  
5 commission?

6 A (CM) It is, yes.

7 Q Can you just tell the Commissioner what the  
8 purpose of this form is?

9 A (CM) So a Form B mortgage is the document that  
10 is used to secure a mortgage to title of the  
11 property. This is a form that is signed by the  
12 mortgagors, the borrowers. Again, you've got  
13 the same applicant, the description of land, the  
14 names of the borrowers, as well as the lender.  
15 There's some payment provisions.

16 MS. PATEL: Can you scroll, Madam Registrar, just so  
17 we can clearly see what's in box number 5.

18 Thank you.

19 THE WITNESS: (CM) And if, for example, there's an  
20 assignment of rents, then you would see a yes,  
21 and details -- not necessarily details, but an  
22 indication of where to look for the details of  
23 the assignment of rent.

24 MS. PATEL:

25 Q Just with respect to what's in box number 5

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1                   here, again, that's the information that's  
2                   provided by the applicant; is that right?

3           A       (CM) That's right. All --

4           Q       And --

5           A       (CM) All of this data is provided by the  
6                   applicant. There are a few things that we can  
7                   verify. For example, you have to be the owner  
8                   to have a mortgage put on, so we'll confirm that  
9                   the person who's listed as the borrower is a  
10                  registered owner of the title.

11          Q       But in terms of the details of the contract that  
12                  are filled out here, this is information that's  
13                  reliant on what's disclosed by the applicant;  
14                  correct?

15          A       (CM) That's right.

16          Q       And is it always the case that this -- the  
17                  information that's in box 5 will be filled out  
18                  to this amount of detail?

19          A       (CM) No. In fact, it's quite common that it  
20                  isn't. There are -- well, for example, I had a  
21                  mortgage, a bank of Nova Scotia, what's called a  
22                  STEP mortgage, Scotia Total Equity Plan, so the  
23                  mortgage secures two lines of credit and what  
24                  one would think of as a conventional mortgage.  
25                  So what would show in the principal amount for

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1                   that type of mortgage would be either a very  
2                   large number, it could be the value of the --  
3                   the fair market value of the property, or it  
4                   could even be a larger number than that. Or it  
5                   might just say "see schedule," and the schedule  
6                   would say something along the lines of, the  
7                   principal amount is whatever we've lent this  
8                   person. The interest rate, again, they'll  
9                   sometime put a large interest rate. The idea  
10                  being for the lender, we don't know how much  
11                  we're going to lend this person and at what  
12                  interest rate, so let's just pick high numbers  
13                  and that way we know that we're secured up to  
14                  that amount should it come to a foreclosure. So  
15                  it will either have a -- it could say I think  
16                  with the STEP mortgages it says prime plus  
17                  10 percent. Or it might just say, at whatever  
18                  interest rate we've agreed to in other  
19                  documents.

20                  Q     So with respect to the information that's in box  
21                         number 5 is there any legal requirement on the  
22                         applicant to disclose that in a document that's  
23                         filed and publicly searchable?

24                  A     (CM) I can only speak to whether it's required  
25                         under the *Land Title Act*, and it isn't. There



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1 is no requirement that the borrower disclose the  
2 terms. I believe in the banking there's a  
3 disclosure document that the lender is required  
4 to provide to the borrower setting out, you  
5 know, here's how much it's actually going to  
6 cost you and here's all the bad things we're  
7 going to do to you if you fail to pay. But to  
8 my knowledge, that isn't public.

9 Q Thank you. And, Mr. Blaschuk, I saw that you  
10 were nodding along. I just wanted to give you  
11 an opportunity to jump in if you had anything to  
12 add to that?

13 A (LB) Thanks, Ms. Patel. The mortgage document  
14 discloses the information that the registrar  
15 needs to record who owns what, and all that  
16 information is provided by the applicant.  
17 Section 225 of the *Land Title Act* talks about  
18 the form of the mortgage, and the -- there's two  
19 pieces: there's this part 1 that we're looking  
20 at here and then there's a part 2 that is the  
21 standard terms that would apply to it or the  
22 other terms that would apply. So all the  
23 agreements between the bank and the borrower on  
24 that.

25 The -- what we need for -- what the

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1 registrar needs is the name of the parties to  
2 the mortgage, the legal description, the  
3 signatures and the witness and there's the  
4 granting language, the mortgage language, and as  
5 long as that's there, the rest of the  
6 information that's here isn't -- it's required  
7 in the form, and something needs to  
8 appear there, but it doesn't need to appear to  
9 this detail. As Carlos has said, it can say  
10 "see schedule" and it could be a paragraph  
11 description.

12 Q And this would be asking you to speak to your  
13 experience and what you've -- what you observed,  
14 but can you speak to your observations as to  
15 what kind of -- are there differences in types  
16 of lenders where you might -- where you observed  
17 that some -- a certain type of lender provides  
18 more information in box 5 and others provide  
19 less?

20 A (LB) It depends on -- on who the lender is, of  
21 course, but Carlos, he mentioned Scotia Mortgage  
22 Corporation or the Bank of Nova Scotia, and it  
23 depends on what name they're using on it, the  
24 amount of the information they're disclosing.  
25 So if it's a conventional first mortgage, it

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1                   will look like what this mock-up does.  If it's  
2                   a home equity line of credit or a STEP mortgage,  
3                   it's going to look different.  If it's a  
4                   mortgage that's collateral to some other form of  
5                   security, whether it's a promissory note or a  
6                   promise to pay or a guarantee, it's going to  
7                   look different from this as well, and that's  
8                   where you're going to see the -- it just depends  
9                   on the -- even the banks have different forms  
10                  that they use.  Private lenders have their own  
11                  forms that they -- their standard terms that  
12                  they would use.  But I don't think there's --  
13                  there isn't a magic in one kind of lender does  
14                  it one way.

15                  Q     Thanks.  I think unless there's something else  
16                          on this particular form, Mr. MacDonald, that you  
17                          think we should have a look at, I was going to  
18                          take this down and move on to a form of title.

19                  A     (CM) Okay.

20                  MS. PATEL:  I'm sorry.  I think, Mr. Commissioner, I  
21                          don't think I've had this marked yet.  But I  
22                          think this would be 752.

23                  THE COMMISSIONER:  All right.  Has that been marked,  
24                          Madam Registrar?

25                  THE REGISTRAR:  Not yet, Mr. Commissioner.

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1 THE COMMISSIONER: All right. We'll mark it then as  
2 the next exhibit. Thank you.

3 THE REGISTRAR: Exhibit 752.

4 **EXHIBIT 752: Mock-up - Form B - Mortgage**

5 MS. PATEL: Thank you. And, Madam Registrar, we can  
6 take that down and bring up the mock-up that's  
7 just called "title."

8 Q So, Mr. MacDonald, again, this is a mock-up  
9 you've provided us. Can you just tell us what  
10 this document is.

11 A (CM) So this is a mock-up of what someone would  
12 receive if they requested a title search for a  
13 particular title. The information on here is  
14 identical to the information contained in the  
15 state of title certificate. It just doesn't  
16 have the fancy seal and registrar's signature on  
17 it.

18 Q Okay. And that's, I think, fine for our  
19 purposes.

20 MS. PATEL: Mr. Commissioner if we could mark this as  
21 exhibit 753, please.

22 THE COMMISSIONER: Very well.

23 THE REGISTRAR: Exhibit 753.

24 **EXHIBIT 753: Mock-up - Title Search**

25 MS. PATEL: And we can take this down, Madam

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1 Registrar. And if you could please bring up the  
2 Form 17.

3 Q All right. So, Mr. MacDonald, this is another  
4 mock-up you provided us. It's a Form 17, and  
5 can you just tell us a little bit about what  
6 this is.

7 A (CM) Sure. So Form 17 is -- oh, how would I say  
8 this? So there are certain forms that have only  
9 one purpose, like a Form A is for a transfer. A  
10 Form B is always a mortgage. Sometimes you'll  
11 have an application that you need to get in  
12 electronically. It needs a way to come in, it  
13 may be a hard copy form, and so the Form 17 is  
14 almost like the cover letter to accompany the  
15 application. So if you look on this one, item  
16 number 3 has the nature of the charge, notation,  
17 or filing. So that tells you this is a Form 17,  
18 but what it's bringing into the land title  
19 office is a certificate of pending litigation  
20 under the *Builders Lien Act*. So I guess the  
21 Form 17 is a generic form.

22 Q Okay. And are either -- if we scroll down in  
23 this form, Madam Registrar, to the next page.  
24 There is the nature of the charge, the pending  
25 litigation, and scroll down again, please, to

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1 the next page -- oh, sorry, actually, this is --  
2 it's just up. So here at the bottom where it  
3 says in the second half of the document, it says  
4 "number, registry" and "in the Supreme Court of  
5 British Columbia between John James Doe and  
6 Jameson Contracting," Mr. MacDonald, can you  
7 confirm this is typically where the applicant  
8 would append the court filing that's usually a  
9 notice of civil claim?

10 A (CM) That's right.

11 Q Okay. And can you speak to -- sorry, I'm  
12 getting into legal matters here. Can you speak  
13 to when a party can file a certificate of  
14 pending litigation? What's the barrier they  
15 have to get over in order to do that?

16 A (CM) Sure, I'm just going from recollection.  
17 Larry may be able to help me on the actual  
18 section. It might be section 216 or 215.

19 (LB) 215.

20 (CM) Sets out the -- and that's the *Land*  
21 *Title Act* -- sets out the circumstances under  
22 which certificate of pending litigation can be  
23 filed. So generally you have to be claiming an  
24 interest in land, but that's not always the  
25 case. So, for example, if your neighbourhood is

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1 subject to a statutory building scheme and it  
2 says you're not allowed to have three-storey  
3 houses and your neighbour starts to build a  
4 three-storey house, you can file a certificate  
5 of pending litigation against title to their  
6 property letting the world know that you're not  
7 happy with your neighbour and you've started an  
8 action against them. So in that case they're  
9 not making a claim for an interest in land, but  
10 under section 215 they are entitled to file a  
11 CPL. I think there are three or four different  
12 circumstances set out in the act as to when one  
13 of these is allowed.

14 Q And I think that my next question, then, is for  
15 Mr. Blaschuk, which is what's the role of the  
16 land title office in determining whether the CPL  
17 has been validly filed?

18 A (LB) So the -- thank you. Form 31 that is shown  
19 here it's prepared by the lawyer of the  
20 applicant. They then take it to court, and if  
21 in their pleadings in the court action they've  
22 claimed for a certificate of pending litigation,  
23 the court will fill out on the second page  
24 there's a signature that the registrar of the  
25 court signs. That then comes back to the land

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1 title office for filing, and what we check is A,  
2 that it's been signed in court and they're  
3 claiming an interest. We also look to make sure  
4 that the interest that's being claimed is  
5 something that will result, and Carlos touched  
6 on this earlier, it will result in most  
7 circumstances in a registrable interest in land.  
8 If what they're claiming is something that's not  
9 capable of resulting in an interest in land, a  
10 registerable interest in land at the end of the  
11 day, the fact that they've got a CPL issued by  
12 the court, we won't accept that CPL in for  
13 filing against the title.

14 Q How do you make that determination?

15 A (LB) Just looking at the wording in the claim to  
16 make sure that it's going to -- it would result  
17 in something that's registerable against land.  
18 And that's based on experience of the deputies,  
19 the folks who do the screening on these  
20 documents as they're coming in the door.

21 Q That was going to be my next question. Who does  
22 the screening?

23 A (LB) It's people with experience. It's the  
24 deputy registrars, assistant deputy registrars  
25 and senior examiners.



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1 Q Are these people doing the review, are they  
2 necessarily people with legal training?

3 A (LB) In fact none of them have legal training.  
4 The legal training -- the lawyers within the  
5 LTSA are Carlos and myself, our privacy officer,  
6 and we've got a legal counsel as well within the  
7 organization.

8 MS. PATEL: Okay. Mr. Commissioner, if we could mark  
9 this as exhibit 754, please.

10 THE COMMISSIONER: Very well.

11 THE REGISTRAR: Exhibit 754.

12 **EXHIBIT 754: Mock-up - Form 17 - Charge,**  
13 **Notation or Filing**

14 MS. PATEL: And we can take that down, Madam  
15 Registrar, and I believe that the last of these  
16 mock-ups I wanted to pull up and mark is the  
17 claim of builders lien. Thank you.

18 Q So, again, Mr. MacDonald, a mock-up that you've  
19 prepared for the commission and if you could  
20 please just describe what the purpose of this  
21 document is?

22 A (CM) Sure. So this is a claim of builders lien.  
23 We call it a CBL. This is pursuant to the  
24 *Builders Lien Act*, but this is the electronic  
25 version of it, so builders lien claimants use

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1                   this form if they haven't been paid or they  
2                   suspect they will not be paid to file a lien of  
3                   claim against title to the property.

4           Q       And what is required from the applicant in order  
5                   to get this filed?

6           A       (CM) I'm going to pass this to Mr. Blaschuk.

7                   (LB) Thanks, Carlos. It's a Form 5 claim of  
8                   lien that's completed by -- most of the time we  
9                   see it completed by members of the general  
10                  public, so the tradesperson who provides the  
11                  work. Sometime it's completed by a legal  
12                  professional, but most times it comes in from a  
13                  member of the public.

14                  It has to -- it has to contain the  
15                  information that's required in the act, contain  
16                  a description of the work, the service that was  
17                  provided on the property, and a dollar value.  
18                  And then, again, we inspect these when they come  
19                  in as well to make sure that what's being  
20                  claimed is something that's added to the value  
21                  of the land. It's a pretty low bar in terms  
22                  that they have to meet in order for it to be  
23                  accepted in.

24           A       (CM) And the only thing I would add is I  
25                   mentioned required a filing, and there are

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1 exceptions, so there is an exemption for claims  
2 of builders liens so that members of the public  
3 can continue to file them. Under the act, I  
4 think the minimum amount for a lien claim is  
5 \$200, and so anything that's to be  
6 electronically filed has to be electronically  
7 signed by a lawyer or notary, and so we didn't  
8 want to essentially disenfranchise the painter  
9 who has a \$500 claim; he or she just wouldn't be  
10 able to go to a lawyer in a cost effective way.  
11 So this is a document that can still be  
12 submitted in hard copy and as a result we see a  
13 fair number of these submitted by tradespeople.  
14 The electronic version, though, like this one,  
15 has to be witnessed -- sorry, has to be  
16 electronically signed by a lawyer, so they're  
17 prepared by lawyers or notaries.

18 (LB) And this is one of the few documents  
19 that we have that we take into the system  
20 without a fee. The province's policy on these  
21 is that the builders liens are pretty much  
22 self-help and free.

23 Q And just in practical terms, what's the impact  
24 of having a builders lien on title?

25 A (LB) Before the registered owner -- if he wants

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1 to refinance or sell, I don't know of anyone who  
2 would take a mortgage out on -- or lend on the  
3 basis of having a lien on title or take title  
4 with a lien on it. So it's a notice -- it's a  
5 claim, so it's a notice to anyone looking at the  
6 title that they're claiming they're entitled to  
7 an interest -- sorry, to some money out of this.  
8 They have to prove that at some point, but  
9 that's for the -- under the provisions of the  
10 *Builders Lien Act*, there's opportunity for the  
11 owner to give notice to the claimant to commence  
12 action to enforce it.

13 MS. PATEL: Mr. Commissioner, I'd ask that this be  
14 marked as the next exhibit. And I think we're  
15 at 755.

16 THE COMMISSIONER: Very well. 755.

17 THE REGISTRAR: Exhibit 755.

18 **EXHIBIT 755: Mock-up - Form 5 - Claim of Lien**

19 MS. PATEL: All right. And we can take this down  
20 now, Madam Registrar.

21 Q With respect to all of the mock-ups that we've  
22 just looked at, Mr. MacDonald, are these  
23 documents that can be pulled by a member of the  
24 public searching the LTSA registry?

25 A (CM) Yes.

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1           Q     I want to ask you a couple of questions about  
2                   the connectivity of the LTSA registry. Does it  
3                   have -- does the land title registry have  
4                   connectivity with the corporate registry?

5           A     (CM) I'll say not really. We have -- it's kind  
6                   of a one-way street, I guess you'd say. So we  
7                   have the ability to search the corporate  
8                   registry. I mentioned that if there's a company  
9                   involved as either a transferee or a transferor,  
10                  we'll check the corporate registry to confirm  
11                  that that company exists and is in good  
12                  standing. But it -- I don't believe there's any  
13                  flow of information from the register to the  
14                  corporate registry.

15                         (LB) That's correct.

16          Q     Okay. And is there any connectivity between the  
17                  land title registry and the LOTR, the Land Owner  
18                  Transparency Registry?

19          A     (CM) Yes, there are, and Mr. Danakody is  
20                  probably in a better position to -- or  
21                  Mr. Blaschuk, actually -- to give the specifics,  
22                  but there are connections between the two. A  
23                  lot of time was spent figuring out how to keep  
24                  LOTR current so that the two systems don't --  
25                  one doesn't get behind the other. And for the

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1                   most part the concern was that something could  
2                   happen in the land title office that might not  
3                   be reflected in LOTR.

4                   Q     And I think I'll narrow my question to, you  
5                   know, is there an interconnectivity that's  
6                   available to the public? For example, a member  
7                   of the public searching the land title registry,  
8                   are they able to go directly from the land title  
9                   registry to the LOTR, and I appreciate -- or  
10                  will they be able to -- I appreciate LOTR is not  
11                  publicly searchable yet -- is there going to be  
12                  that kind of connectivity available to the  
13                  public?

14                  A     (RD) I'm happy to take that question. Just in  
15                  relation to the earlier question, I just wanted  
16                  to also clarify that in searching for the  
17                  ownership of a piece of land registered on  
18                  title, a single source of truth will continue --  
19                  is and will continue to be the land title  
20                  register. And the only thing that you can  
21                  search through LOTR is indirect ownership of  
22                  interest holders, beneficial interest holders.  
23                  So LOTR will not provide you with the ownership  
24                  information that is contained in the land title  
25                  register.

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1                   And to the second question as to whether the  
2                   public can search both land title information  
3                   and LOTR through -- call it a portal, yes, they  
4                   can. So they would be able to do two separate  
5                   searches, but you're getting two different types  
6                   of information. I hope that clarifies the  
7                   information.

8                   Q     Yes. Thank you. And I think my next question  
9                   is for Mr. Steves, and it's -- there are some  
10                  jurisdictions, I understand, in which the land  
11                  title registers are connected to corporate  
12                  registers, so you could do a search of a  
13                  property and see that the owner is a corporate  
14                  entity, then click on that corporate entity and  
15                  then find the corporate information without  
16                  having to -- as I understand is the case now,  
17                  log out and log into a separate registry and  
18                  re-enter the corporate information. Is there --  
19                  what are the barriers to having such a  
20                  connectivity between the land title register  
21                  and, say, the British Columbia corporate  
22                  registry?

23                  A     (GS) Yeah, I mean, it might be a question better  
24                  suited to the province. I mean, they -- the two  
25                  registries exist in different worlds right now.

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1                   One's retained internally in the province and  
2                   then the land title registry with the LTSA. I  
3                   think technically there's ways to make them  
4                   connect, but really that would have to be  
5                   initiated by the province or that direction  
6                   would have to come from the province.

7                   Q     So as far as you're aware it's not a technical  
8                   issue or a technical possibility; it's an issue  
9                   of legislation and --

10                  A     (GS) Legislation mandate. I think there  
11                  probably are technical barriers. We don't know  
12                  sort of what technology the corporate registry  
13                  exists in, so that would have to be unpacked and  
14                  pursued. But absolutely that direction, that  
15                  mandate, would have to come from the province.

16                  Q     Okay. A final question on searchability from  
17                  members of the public, when a member of the  
18                  public searches for an owner of an interest in  
19                  land, are they -- the results that they're  
20                  obtaining, are those current or are they also  
21                  historical?

22                  A     (CM) So for an owner, a member of the public can  
23                  search electronically. They'll get the current  
24                  owner. We do have -- and strangely enough, if  
25                  you come to the front counter, you can perform a



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1 historical name search, but that isn't a service  
2 that's available online.

3 Q Can you say why it's not available online?

4 A (CM) I cannot. It just isn't something that  
5 we've set out. To my knowledge, I don't think  
6 there's a policy reason for it. It's just it's  
7 a gap in our services.

8 We have an initiative to close online  
9 service gaps, so we're looking to be able to  
10 provide all our services online, but we're not  
11 finished yet.

12 Q Okay. And so a person coming to the counter  
13 could search the historical titles held  
14 historically by an individual. Could they also  
15 search for charges held historically by an  
16 individual, particularly CPLs and mortgages?

17 A (CM) So historical charge owners, I don't think  
18 they can search CPLs. I don't know the answer  
19 to the question off the top of my head.

20 Q Okay. But, sorry, with respect to mortgage  
21 holders to lenders?

22 A I believe they can, but I can't say for certain.  
23 I'd have to check.

24 Q Okay. And can you advise whether providing  
25 electronic searchability of mortgage holders,

1 historical mortgage holders, is something that  
2 is part of the gap, one of the gaps that's being  
3 considered for being filled?

4 A I don't think it is. The register is set up for  
5 the purpose of recording ownership at the parcel  
6 level. And so -- and we do that very well. So,  
7 for example, if you have a piece of property and  
8 you want to know who the owner was or is, we can  
9 tell you that. You'll also be able to on your  
10 own without having to come to our front counter  
11 be able to tell who they brought it from, who  
12 they bought it from and with a little help from  
13 us -- because at a certain point they stop  
14 becoming electronic records, but we can tell you  
15 every owner of that piece of property going back  
16 to the original Crown grant. And we can also  
17 provide every charge that has ever been on that  
18 title, again, going right back to the original  
19 Crown grant.

20 (LB) And copies of all of the titles for that  
21 particular parcel as well.

22 (CM) Yeah. But the type of search that you're  
23 asking is, I guess, a different paradigm. It's  
24 not looking at it based on tracking ownership of  
25 a particular parcel.

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1           Q     Okay.  And, again, I meant to address this when  
2                     we were looking at the mock-ups, but is there  
3                     any field in any of those forms that we looked  
4                     at for entering a real estate licensee involved  
5                     in a transaction or for identifying a mortgage  
6                     broker or mortgage brokerage identified as  
7                     participating in a transaction?

8           A     (CM) There isn't.  Again, going back to the  
9                     purpose of the register, it's to track ownership  
10                    of interest in land and neither of those fit the  
11                    bill.  Technically, probably not a difficult  
12                    thing to do, but we would need a mandate to do  
13                    that and we don't have one right now.

14          Q     And that was going to be my followup question,  
15                    which is are there barriers to collecting and  
16                    making searchable that type of information?

17          A     (CM) So there are legislative barriers in that  
18                    we don't have a mandate to do that.  It's not  
19                    required by the act.  And it doesn't fit with  
20                    the purpose that the register was set up.  There  
21                    will be some technical barriers, although again,  
22                    I'm not the technical guy, but I know we have a  
23                    lot of very smart technical people at the LTSA  
24                    who likely would be able to add another field.  
25                    If we can build LOTR, we can probably add

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1 another field, so -- but I think it's primarily  
2 a kind of a mandate, a mandate issue.

3 Q Okay. And I'm going to ask a question now --  
4 and I think this might be about unique  
5 identifiers and this might be a question for  
6 Mr. Steves. Are you aware of the concept of a  
7 unique identifier?

8 A (GS) Absolutely, yes.

9 Q And for the Commissioner's benefit if you could  
10 just explain what the concept entails.

11 A (GS) Well, I mean, essentially in the land title  
12 system we have a unique identifier now, and it's  
13 tied to the parcel. So every parcel has a  
14 parcel identifier, it's unique to that parcel of  
15 land and it is land based. So the idea, I  
16 think, that you're talking about is a unique  
17 identifier tied to a person.

18 Q Yes.

19 A (GS) And that that person be tracked across the  
20 land title system regardless of what parcel is  
21 involved.

22 Q Yeah, that's correct. And my question is is  
23 there any barrier, a technical barrier that  
24 you're aware of -- well, technical or legal  
25 barrier to the LTSA implementing a unique

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1 identifier system for owners, for persons or  
2 corporations?

3 A (GS) Yeah, I think it's something that's  
4 technically possible. I don't think there's a  
5 legal barrier to doing it. I think as Carlos  
6 mentioned before, the integrity of the registry  
7 is really parcel based and that was really the  
8 initial purpose and mandate of the LTSA was  
9 really around the integrity of that title. The  
10 idea of a unique identifier tied to people is  
11 something that we're interested in and certainly  
12 moving forward something that we would be  
13 willing to look at.

14 Q And is it something that you would be  
15 constrained from doing under the current legal  
16 framework?

17 A (GS) Yeah, I'd probably defer to Carlos on that  
18 question.

19 (CM) So yes and no. I think we have the  
20 authority to create a unique owner ID right now,  
21 but you have to remember for what purpose;  
22 right? So initially when we were thinking of a  
23 unique owner ID it was to preserve the integrity  
24 of the land title system. So you'll have three  
25 James Smiths who own 30 different parcels, but

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1                   you can't tell which James Smith owns them. You  
2                   can look at their occupation, you can look at  
3                   the address, but those aren't definitive. So  
4                   the idea is that we would have a unique owner ID  
5                   so that folks would be able to maybe use their  
6                   BC Services Card, for example, and log in and if  
7                   they want to do a change of address we'd be able  
8                   to say oh, we also know that you're the owner of  
9                   these other three parcels; did you want to  
10                  change your address on those as well? The  
11                  unique owner ID was to be private, so it  
12                  wouldn't be available, for example, for judgment  
13                  creditors to make sure they had the right one.  
14                  This to our view was about making -- it was more  
15                  customer centric and with the idea of being able  
16                  to strengthen the integrity of the land title  
17                  system. So if we're talking about -- I'm sorry.  
18                  And there are other things we could do as well.  
19                  So, for example, dual factor authentication. If  
20                  someone were to combat fraud, something happens  
21                  on your title and you get a text that says oh,  
22                  are you messing with your title? Because  
23                  somebody is. There are all sorts of technical  
24                  features that we could build to, again, increase  
25                  the security of the system.

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1                   But if we're talking about oh, we'd like to  
2                   use this so that we can -- so not that we -- so  
3                   that some external party can track you and  
4                   whether it's part of a taxation or a criminal  
5                   probe or what have you, we don't have the legal  
6                   mandate to do that at this point.

7                   (GS) And I would just add too that we have  
8                   registered owners from all over the world in the  
9                   land title system, so the process of creating  
10                  that unique identifier has to contemplate where  
11                  everyone is coming from. So by definition we  
12                  would have to create our own unique identifier,  
13                  wouldn't be compatible with others, and it  
14                  shifts from being then a land registry to also  
15                  being an owner registry. And so we'd want to go  
16                  back and assess our mandate against that, you  
17                  know, against that development.

18                Q     Okay. We were talking about -- moving into  
19                  talking about information sharing with other  
20                  agencies and law enforcement in particular, and  
21                  I think that it's already been mentioned that  
22                  the British Columbia government and British  
23                  Columbia government agencies have free access to  
24                  the land title registry; is that right?

25                A     (GS) They are fee exempt, yes.

1 Q They are fee exempt. And, Mr. Danakody, are  
2 they also fee exempt with respect to the LOTR?

3 A (RD) Yes, they are. The Ministry of Finance is  
4 fee exempt from filings and from searches.

5 Q Okay. And what about law enforcement? What  
6 ability does the LTSA have to share land title  
7 registry information with law enforcement?

8 A (LB) Our business model is set up on a user-pay  
9 basis. So, for example, the RCMP, if they wish  
10 information from our register, it's available on  
11 payment of the fee.

12 Q So there's no exemption built in for law  
13 enforcement?

14 A (LB) No, there is not.

15 Q Have you had any feedback from law enforcement  
16 about that structure?

17 A (CM) I certainly have. I gave that presentation  
18 FS008, and it kind of explained -- this was in  
19 February last year, and explained how our system  
20 works and our business model and that it's  
21 essentially a pay for service, and law  
22 enforcement is not happy about that. They see  
23 it as a hindrance to their ability to be able to  
24 catch bad guys.

25 Q Okay.



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1           A     (RD) Ms. Patel, I'm happy to provide the *LOTA*  
2                    lens here, if you will, as well on that same  
3                    subject. So the RCMP and any BC police force is  
4                    also subject to search fees under *LOTA*, and I  
5                    have had discussions with members of RCMP, FSOC  
6                    and CFSEU divisions about the oncoming search of  
7                    *LOTA*, and they did express concerns around the  
8                    payment of fees for searches.

9           Q     So it's been communicated to LTSA both in  
10                   respect of both registries that access to the  
11                   information of both would be of use to law  
12                   enforcement?

13          A     (RD) That's my understanding from discussions in  
14                   so far as *LOTA* is concerned, correct. My  
15                   discussions, very specific to *LOTA*.

16          Q     Moving into a slightly different aspect of data  
17                   sharing or data access, what about bulk data  
18                   sharing? Have you had requests from agents,  
19                   non-British Columbia government agencies for  
20                   access to bulk sets of data and what's been your  
21                   ability to share bulk sets of data in response  
22                   to such requests?

23          A     (CM) Yes, we have. And we really struggle with  
24                   those types of requests. Any time we receive a  
25                   request for any type of land title data, we look

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1                   at it first through the *Land Title Act* lens.  
2                   And so the starting point is section 377(4),  
3                   which sets out the various ways you can search  
4                   the register. So if the request can -- if it's  
5                   a bulk request but it can fit within that, so,  
6                   for example, I'm Bank of Montreal and I'd like a  
7                   copy of every mortgage that I currently have  
8                   registered in your system. We may initially say  
9                   well, you can do that yourself, and then we'd  
10                  say okay, no, you've got 10,000 of these and I  
11                  can understand why that might be difficult, so  
12                  we will assist you to get those searches upon  
13                  payment of the fee; right? So that's if it fits  
14                  within 377(4). Often the request, though, won't  
15                  be, I want these specific charges or documents,  
16                  it will be something along the lines of, I would  
17                  like a copy of every claim of builders lien that  
18                  has been filed in the Lower Mainland between  
19                  2016 and 2020. So that isn't a type of search  
20                  that's -- that fits well within 377(4). If  
21                  it's -- so I'm going to jump around a little  
22                  bit.

23                         If it's the province-- sorry, so how do we  
24                         charge a fee, first of all, because our fees are  
25                         set out in statute as well. So if there isn't a

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1 fee associated with the information that's being  
2 requested, we really struggle. And you have to  
3 remember that we retain 45 percent of the fees,  
4 the government expects its 55 percent, so we  
5 can't say that we'll give you a gimme here and  
6 help you out. That isn't allowed.

7 If it's the province, the province is  
8 exempt from fees, from the payment of land title  
9 fees. So that makes it a little bit easier. We  
10 do run into other issues, privacy issues, for  
11 example. So although the province is entitled  
12 to our entire register, if they make a bulk data  
13 request, we'll do our very best to provide it,  
14 but we'll have some questions and we may ask  
15 that there be stipulations put on its use. Both  
16 from a privacy issue -- we don't want to hand  
17 over data that then ends up being distributed  
18 further than it needs to. And also from a  
19 business model perspective, so you have to  
20 remember that most of our revenue comes from  
21 fees related to searches. So if we hand over  
22 the register, it jeopardizes our business model.  
23 There are also reputational concerns that we  
24 look at. So we did have -- we had a law firm a  
25 few years back ask for all of the titles that

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1                   currently had a CBL, a claim of builders lien,  
2                   on them, and then we asked them well, why do you  
3                   want this, they said well, we want to help these  
4                   owners out, so we're going to contact them and  
5                   say hey, we know you've got a CBL on title and  
6                   we're here to help. So you can imagine how  
7                   folks might react when they -- if they were to  
8                   find the LTSA had provided this information to  
9                   someone who was then using that information to  
10                  market their services. So those are just some  
11                  of the issues that we grapple with when it comes  
12                  to large data requests.

13                  Q     Have you -- I understand that you have had at  
14                          one point a large data request from CMHC in  
15                          respect of the study that they were conducting  
16                          around money laundering indicators. Do you  
17                          recall that?

18                  A     (CM) I have a vague -- I have a vague  
19                          recollection, yes.

20                  Q     Okay. And if there's anybody else on the panel  
21                          who has a better recollection of that or the  
22                          circumstances or what happened with that  
23                          request, I'll put that question out to the panel  
24                          at large.

25                  A     (CM) Yeah, I think it would have been received

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1 by the previous Director of Land Titles,  
2 depending on when it came in. It would either  
3 have been the previous Director of Land Titles  
4 who was also the previous VP of PLS, so either  
5 my predecessor or Gregory's. Again, if -- when  
6 we receive these types of requests -- there was  
7 one I do recall. I thought it was StatCan. It  
8 may have been CMHC. They were looking for data  
9 that included information that we didn't have.  
10 So I do remember referring -- or not me  
11 personally, but I do remember the LTSA referring  
12 them to BC Assessment because they were looking  
13 for is it residential versus non-residential  
14 property and that was something that we didn't  
15 have.

16 Q Okay. And in respect of such a request would  
17 the same -- a request for bulk data from a --  
18 like, say for example, a federal -- a  
19 non-British Columbia government agency looking  
20 to do some kind of analysis, would the same  
21 barriers about privacy concerns and privacy  
22 legislation concerns of and issues about just  
23 the payment requirements, would those arise in  
24 the context of such requests?

25 A (CM) Yes. And thanks. You reminded me. We're

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1                   a public body pursuant to *FIPPA*, so we initially  
2                   give it a 377(4) *Land Title Act* lens, and then  
3                   we'll flip the request over to the privacy folks  
4                   and see if we can comply -- if we can help them  
5                   out under *FIPPA*. But of course *FIPPA* has  
6                   constraints on both the collection and the use  
7                   of the data. I'm not the privacy officer, so I  
8                   can't speak to exactly what happens once it  
9                   leaves our office and goes to the next office,  
10                  but those -- often the information that they're  
11                  seeking contains personal information. And so  
12                  having us redact it is unhelpful.

13                  Q     And so in order to helpfully to be able to share  
14                  that information, you would require access to an  
15                  exemption under *FIPPA* to allow you to safely  
16                  share that information?

17                  A     (CM) We'd need some legal authority to provide  
18                  it, whether that's an exemption or something  
19                  else.

20                  MR. STEPHENS: Yeah, I'll just add. I think we'd  
21                  need really clear direction on what our  
22                  authority to share that information is, how the  
23                  information is being used, how privacy is being  
24                  protected. We'd have to contemplate what the  
25                  resources are required. These bulk data

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1 requests are not easily produced in our system,  
2 which is parcel based. So everything in our  
3 system is designed and built around that  
4 individual parcel. So to be able to do an  
5 extraction based on, you know, the whole  
6 universe requires a lot of resources to prepare  
7 and to export that.

8 So just contemplating even the mechanics  
9 behind how to technically export that data is  
10 complicated. So there's technical constraints,  
11 there's legal constraints and then there's the  
12 question of the impact on our business model if  
13 they're sharing our data widely, and we'd have  
14 to sort of pursue all three of those before we  
15 could satisfy such a request.

16 Q Okay.

17 A (GS) And I think what we've seen in the past  
18 is -- and this does predate my time but based on  
19 recent conversations with CMHC, for example, is  
20 it might be more strategic to hone in on  
21 specific types of files that they want to see or  
22 typologies of files that they want to see rather  
23 than the bulk data in its entirety.

24 Q Okay. Thank you. Mr. Danakody, I'm going to  
25 move to the Land Owner Transparency Registry.

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1                   And I'm conscious of the time, so I'm going to  
2                   have to move through these quickly. You have  
3                   prepared for us a very helpful presentation.

4                   And, Madam Registrar, if you could bring up  
5                   the Land Owner Transparency Registry  
6                   presentation.

7                   We won't have the time to go through this in  
8                   detail today, but I'm certainly -- we're going  
9                   to enter it as an exhibit and I'll refer to a  
10                  few of the slides just for some background  
11                  information and then I'm going to be asking you  
12                  essentially for a status update about how things  
13                  are going in terms of accepting disclosures and  
14                  if there's any lessons learned to date.

15                  If we could skip, Madam Registrar --  
16                  Mr. Danakody, you recognize this as a  
17                  presentation you've prepared and I don't think  
18                  exclusively for the commission but for a number  
19                  of situations?

20                  A     (RD) That's correct. This presentation is  
21                  prepared for exclusively for the legal  
22                  practitioners who are actually doing the filings  
23                  for the clients as well as information for the  
24                  general public.

25                  Q     Perfect. And if we could go to page 4 of this



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1 PDF. And so just to place this again, you've  
2 given us a little bit of a taste of this in --  
3 at the outset of the hearing, but where we are  
4 chronologically is that we're somewhere in  
5 between the second and the third rectangles  
6 there on the page in terms of functionality?

7 A (RD) That's correct. So we're about three and a  
8 half months since *LOTA* moved into force,  
9 November 30th, and we've been primarily -- I can  
10 provide you with some numbers -- primarily been  
11 receiving filings primarily due to the new  
12 transactions being registered on title, which  
13 obviously require -- mandatorily require the  
14 filing of transparency declarations and report  
15 if the transferees are reporting bodies. As of  
16 today, we have approximately 52,500 transparency  
17 declarations, and about 5,700 transparency  
18 reports, so in total about 58,200 filings.

19 Q And what's the difference between a declaration  
20 and a report?

21 A (RD) Yeah, transparency declaration is a very  
22 simple declaration really by the transferee  
23 identifying the transferee name, and a  
24 disclosure as to whether the transferee is a  
25 reporting body or not. And a reporting body as

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1 defined under *LOTA* is either a relevant  
2 corporation, a trustee of a relevant trust or a  
3 partner of a relevant partnership. And then  
4 there's a certification of the declaration by  
5 the transferee. And transferees who are  
6 reporting bodies are further required to  
7 complete what is known as a transparency report,  
8 which is a much more comprehensive declaration.

9 As further information, I'm happy to  
10 provide under sections 15 of *LOTA*, transferees  
11 who are registered -- registered owners,  
12 pre-existing registered owners who are reporting  
13 bodies are required to mandatorily file a  
14 transparency report by November 30th, 2021. So  
15 there's quite a bit of time left before that  
16 statutory date. And there are approximately  
17 400 filings of just those transparency reports  
18 by pre-existing owners.

19 Q And are you -- so far are you on track to meet  
20 that April 30th, 2021 date of making the  
21 searchability function come live?

22 A (RD) We absolutely are. In fact we've not only  
23 undertaken consultations, particularly with the  
24 authorized regulators as set out in section 30  
25 of the act who have access to the complete set

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1 of transparency records. So we've done some  
2 consultations to determine what the requirements  
3 are, how they would like to search, how they'd  
4 like the information, whether it's PDF or, you  
5 know, sort of -- you know, what format, XML  
6 formats and so forth. So we've done that.  
7 We've got development well underway. We plan to  
8 undertake an inaugural demonstration to all of  
9 those authorized regulators sometime in  
10 mid-April in preparation for that launch on  
11 April 30th, 2021. And concurrently on that same  
12 date, the public will also be able to search  
13 *LOTA*, of course with a limited set of  
14 information that they're authorized to receive  
15 under the act.

16 Q Okay. I'm going to ask, Madam Registrar, if you  
17 can move to page 10 of this PDF, and I think  
18 this is mainly this is covering ground that  
19 you've already discussed, Mr. Danakody, but it's  
20 when a *LOTA* disclosure is required, you've  
21 spoken about registration, so on transfers. And  
22 this is -- I understand that these are -- is  
23 this the source of most of the -- sorry, the  
24 52,000 declarations?

25 A (RD) Correct. So these are the source of all of

1                   the new transactions that go through land titles  
2                   and are mandatorily required to accompany -- be  
3                   accompanied by a -- by a transparency  
4                   declaration and reported to a reporting body.  
5                   So the registrar has a key role, the Registrar  
6                   of Land Titles specifically, in that if an  
7                   application is not accompanied by a transparency  
8                   declaration and a transparency report if the  
9                   transferee is a reporting body, the registrar by  
10                  law under section 11 of *LOTA* must refuse the  
11                  entire application.

12                                The only circumstances under which the  
13                   Registrar of Land Titles can accept an  
14                   application is if the application is an interest  
15                   in land that is not currently defined under *LOTA*  
16                   or if the application involves land that is  
17                   excluded under section 6, which is certain  
18                   indigenous lands.

19                  Q     Just moving to slide 11 here, I just wanted to  
20                   touch on the role of the registrar in filings,  
21                   and this is what the role of the registrar is  
22                   and then conversely what it isn't and if you  
23                   could speak to that.

24                  A     (RD) Certainly. So the role of the registrar --  
25                   what it isn't is to look further into the

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1 voracity or the content of transparency records.  
2 Transparency records for the panel's -- for the  
3 commission's benefit includes transparency  
4 declarations, transparency reports, reported  
5 information and any other information that's  
6 provided to the administrator. So section 80 of  
7 *LOTA* specifically articulates that the registrar  
8 is not required to look into the voracity of the  
9 information. However, the administrator has a  
10 different role other than the registrar.

11 Q Okay. Can you -- sorry, can you elaborate a  
12 little bit on the difference between the  
13 administrator's role and the registrar's role?

14 A (RD) Yeah. So the registrar's role -- and not  
15 to play it down, but it is limited other than  
16 basically to ensure that a land title  
17 application if it's an interest in land that is  
18 covered or defined under *LOTA* must be  
19 accompanied by a transparency declaration.  
20 Let's say if it's a Form A application that we  
21 talked about or certain Form 17s must include a  
22 transparency declaration and if the transferee  
23 is reporting body must include a transparency  
24 report. Those two -- the transparency deck and  
25 the report, must be certified by the transferee

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1 or the reporting body. And then what *LOTA*  
2 refers to is a designate, typically that's the  
3 notary or the legal professional, lawyer, or as  
4 Carlos, Mr. MacDonald covered earlier, might be  
5 an ASR member who then certifies it by applying  
6 the electronic Juricert certificate, which is  
7 issued by the Law Society of British Columbia.  
8 And of course that the appropriate *LOTA* filing  
9 fees are collected. That's the registrar's  
10 requirement.

11 Q Okay.

12 A (RD) The -- sorry.

13 Q No, I was going to ask, and you might have been  
14 moving to this, is that there's also an  
15 enforcement officer. And if you could --

16 A (RD) Yeah, so what I just covered is the  
17 registrar's role. If I may, Ms. Patel, I'll  
18 just cover very quickly the administrator's role  
19 and then the enforcement officer. The role of  
20 the administrator is ultimately really to  
21 administer all aspects of the role in so far as  
22 the administrator's responsibilities are  
23 concerned within the act, which is establishing  
24 form and manner of filing, the transparency  
25 reports, submitting of applications, there's a

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1 kind of number of -- two applications within the  
2 act, and also making information available to  
3 the public, making sure that the information  
4 that's being searched is current at the time of  
5 search, establishing how the information has to  
6 be -- will be searched, and overall  
7 administration of the act and any requirements  
8 of policy changes or policy requirements that  
9 the Minister of Finance is undertaking in  
10 supporting that function.

11 The distinction between the enforcement  
12 officer and the administrator is that the  
13 administrator doesn't have any role in ensuring  
14 compliance or enforcing lack of compliance, so  
15 at a high level I would describe it as the  
16 enforcement officer, which is, as I understand,  
17 an executive director within the property  
18 taxation branch of the Ministry of Finance.  
19 That role is overall conducting inspections,  
20 requiring information to be provided to the  
21 enforcement division, and as I mentioned,  
22 enforcing compliance with *LOTA*, and utilizing  
23 some of the tools that are given to the  
24 enforcement officer within the act which  
25 includes administering penalties that are

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1                   available as a tool to enforce non-compliance  
2                   and also providing an appeal process of dispute  
3                   resolution process for compliance issues as  
4                   well.

5                   And of course the enforcement officer, that  
6                   division of course has the ability and is  
7                   responsible for providing overall knowledge and  
8                   education and awareness about *LOTA* itself.

9                   Q     It's early days yet. Are you able to advise the  
10                  Commissioner if there's been experience yet with  
11                  any compliance issues arising?

12                 A     (RD) I haven't observed specifically any  
13                  non-compliance. What I have seen from actual  
14                  filings is incorrect filings of transparency  
15                  declarations, both incorrect and improper  
16                  filings of transparency declarations and  
17                  transparency reports, and the administrator  
18                  under *LOTA* has the statutory authority to seek  
19                  clarification and ask for certain information to  
20                  substantiate or verify certain information, but  
21                  the administrator has no statutory authority to  
22                  take it to the next level of sort of  
23                  enforcement. So certainly have -- the  
24                  administrator and I have the ability to correct  
25                  information, complete information that may be



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1                   missing or to make annotations to a file,  
2                   transparency records as well. All of those  
3                   would of course be available to law enforcement  
4                   and regulators.

5                   MS. PATEL: Okay. Mr. Commissioner, if we could have  
6                   this presentation marked as exhibit -- the next  
7                   exhibit, which I believe is 756.

8                   THE COMMISSIONER: Very well, 756.

9                   THE REGISTRAR: Exhibit 756.

10                   **EXHIBIT 756: Land Owner Transparency Registry**  
11                   **Presentation - 2020**

12                   MS. PATEL: Madam Registrar, you can take this down  
13                   now and I'll ask if you can pull up exhibit 706,  
14                   page 4.

15                   Q    And just actually if you can scroll to the very  
16                   top of this document first. I'll just assist  
17                   Mr. Danakody by identifying it. Mr. Danakody,  
18                   did you, as -- did you with the LTSA take part  
19                   in the provincial federal ad hoc working group  
20                   on real estate?

21                   A    (RD) I haven't. But I can't comment on behalf  
22                   of my other colleagues on this panel if they  
23                   might have. But I certainly haven't.

24                   Q    Okay. But are you aware of what it is?

25                   A    (RD) Just briefly based on following some of the

1 previous testimonies and previous hearings.

2 Q Okay. And, Mr. MacDonald, you lowered your  
3 microphone and I thought you were maybe going to  
4 jump in.

5 A (CM) I was just going to say I had some limited  
6 involvement.

7 Q Okay. You may already know this, Mr. Danakody,  
8 because you said you've been following the  
9 hearings, but this is an executive summary of a  
10 final report to the finance ministers from the  
11 ad hoc working group on real estate. And I  
12 just -- I want to draw your attention to a  
13 couple of comments that were made about  
14 beneficial ownership.

15 And now we can go back down to page 4, Madam  
16 Registrar, where you started. Madam Registrar,  
17 if you could bring us back down to page 4 of  
18 this document, please. Okay.

19 You can see at the bottom it says  
20 "beneficial ownership registries." And I  
21 needn't take you through all of this. I just  
22 wanted to scroll down to the top of page 5.  
23 Here we are:

24 "To support continued improvement to the  
25 *Land Owner Transparency Act* and facilitate

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1 sharing of information on the initiative  
2 with other provinces and territories, the  
3 working group conducted a lessons-learned  
4 exercise."

5 Skipping down to the last sentence of that  
6 paragraph:

7 "Overall, the working group formulated a  
8 list of suggested items for further  
9 consideration."

10 It's these suggested items that I wanted to  
11 bring to your attention. One is that:

12 "BC could consider further measures to  
13 improve the accuracy of the *LOTA* registry,  
14 such as requiring the collection of tax  
15 numbers from foreign entities that do not  
16 have a Canadian tax number."

17 And just with reference to that point, I'm first  
18 going to step back and ask you what unique  
19 identifying information about owners does the  
20 LOTR collect currently?

21 A (RD) So specific to individuals who are interest  
22 holders, which is what -- what the transparency  
23 reports collect, LOTR does collect SIN numbers,  
24 social insurance numbers, where available, or a  
25 Canadian tax number where available. And I say

1 "where available" is because we recognize that  
2 in certain situations certain individuals may  
3 not have either of those. And those are  
4 specifically required under the act within *LOTA*.  
5 So those are the two unique identifiers, and of  
6 course date of birth is another personal  
7 information that we collect as required under  
8 *LOTA*. Specific to interest holders.

9 Q Okay. And so do you see any barriers to the  
10 collection of tax numbers from foreign entities,  
11 from tax numbers that are not Canadian tax  
12 numbers?

13 A (RD) I haven't observed any barriers. I have  
14 actually observed through the disclosures that  
15 we've been receiving, both SIN numbers as well  
16 as Canadian tax numbers. The only barrier that  
17 I could -- I can think of at this time is in the  
18 event that an individual doesn't have either of  
19 those, then there is no identifying number for  
20 that individual. But as far as the collection  
21 of, I haven't heard of any barriers to that, and  
22 like I said, I have seen ITN numbers being  
23 disclosed in transparency reports.

24 Q Moving to the second bullet point about  
25 monitoring privacy concerns, is there any

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1                   current plan set up for monitoring those  
2                   concerns as the public facing registry, the  
3                   searchable registry, comes live?

4                   A       (RD) I mean, we -- there is no specific plans  
5                   per se, but we are definitely alive to privacy  
6                   concerns around search of *LOTA* through public  
7                   searches. I personally have received many phone  
8                   calls as well as inquiries through emails from  
9                   members of the general public, both in North  
10                  America and globally about *LOTA* and what it is,  
11                  what's going to be shared, what is going to be  
12                  disclosed, what the public can search. So just  
13                  general concerns about privacy of their  
14                  information. So we're basically monitoring  
15                  that. Obviously *LOTA* has not -- this search is  
16                  not in force until April 30th, so we'll continue  
17                  to monitor that and provide the Ministry of  
18                  Finance with our input as to how that's  
19                  progressing.

20                  Q       Okay. Just touching briefly on the third bullet  
21                  point. We addressed the sharing of data from  
22                  the land title registry with other government  
23                  agencies. Is there anything that you would add  
24                  to the considerations that have to be -- that  
25                  taken into account for the sharing of Land Owner

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1                   Transparency Registry data with other agencies  
2                   beyond the conversation we've already had here  
3                   today?

4           A       (RD) Yeah, I think the only thing I would add is  
5                   *LOTA* is very clear in terms of what the public  
6                   can get and cannot get. And each search by the  
7                   public is subject to a \$5 search fee. So if the  
8                   public -- a member of the public wants to do  
9                   10 searches that's \$5 per search. That's the  
10                  same thing with the regulators as set out in  
11                  section 30 of *LOTA*. For example, BCFSa, the Law  
12                  Society of British Columbia, FINTRAC, et cetera,  
13                  they would still be subject to a search fee,  
14                  which is \$5 per search. Can they request a bulk  
15                  search? Yes, they can, but they will be subject  
16                  to the \$5 per search fee. So it's 5,000 actual  
17                  searches but in bulk, that's under the current  
18                  legislation, the framework, business framework,  
19                  it is still subject to a fee.

20                         Now, *LOTA* is also very specific that the  
21                         information that is being sought has to be used  
22                         for the purpose of conducting the work as set  
23                         out in those respective entities' legislation or  
24                         mandate. So it's not to be used for other  
25                         purposes. So it's similar to what my colleague

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1                   Mr. MacDonald had described, that it can't be  
2                   used for something else.

3                   So -- and that's the same -- I would  
4                   describe as the same issue that both my  
5                   colleagues Mr. MacDonald and Mr. Steves had  
6                   described about, you know, depending on the  
7                   volume of the bulk search, if you're asking for  
8                   the entire registry, they will have to think  
9                   about that in terms of what the impact is, what  
10                  the purpose is and how that might impact  
11                  potentially on our economic model within the  
12                  LTSA.

13                 Q    Okay. I just want -- sorry, I just have a  
14                    couple of cleanup questions. First of all,  
15                    Mr. Blaschuk, I understand you might have an  
16                    update on the -- whether in searching for an  
17                    owner name, the results would include CPLs filed  
18                    on behalf of a person.

19                 A    (LB) And I've confirmed that a name search will  
20                    disclose that. The CPLs will be listed under  
21                    the name search.

22                 MS. PATEL: Thank you. And just addressing -- and  
23                    Madam Registrar, we can take down this document  
24                    thank you very much.

25                 Q    Just addressing a couple of suggestions we've

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1                   heard or criticisms we've heard of the LTSA's  
2                   data management or how things are available to  
3                   be viewed, do you have any response to the  
4                   suggestion, to a suggestion that all mortgage  
5                   forms should be made machine readable and  
6                   searchable? Would that -- A, is there anything  
7                   legally preventing you from doing that and would  
8                   it prevent technological or operational  
9                   barriers?

10            A       (CM) I'm not sure if there's any legal  
11                   impediment to doing that. As I mentioned, when  
12                   the information comes in, it's already fielded,  
13                   so for a short period of time, at least, it's in  
14                   a status where it could be searched.

15                               On the technical side of things, you know,  
16                   we keep the data we need because it's -- because  
17                   that's all we are required. That's all that is  
18                   required to keep the system running. And there  
19                   would be costs associated with maintaining all  
20                   of these fields in a searchable format.

21                               We've got -- well, the last data I saw was  
22                   from 2015, and in 2015 we had over 10 million  
23                   records available on myLTSA. We have about  
24                   800,000 or so records that come in every year,  
25                   so that number is probably closer to 15 million



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1                   at this point. We have 73 million pages of  
2                   records in microfilm. And so having all of this  
3                   information OCR, OCRable and capable of being  
4                   searched, would be a large undertaking.

5                   For mortgages themselves, not as large an  
6                   undertaking, but there would be -- there would  
7                   be added administrative burden on the LTSA. All  
8                   of that just comes down to well, does the  
9                   business model provide for that. Essentially  
10                  would fees have to go up to be able to support  
11                  the added burden.

12                 MS. PATEL: Thank you. Mr. Commissioner --

13                 THE WITNESS: (CM) I think, sorry, Mr. Steves was  
14                  muted.

15                 MS. PATEL:

16                 Q     Oh, I'm sorry.

17                 A     (GS) I was just going to add in. I think  
18                  it's -- the registry is doing what it was  
19                  designed to do right now, which is the title  
20                  data. We can build in the ability to capture  
21                  that mortgage data and make it more searchable,  
22                  make it do more things. It was just never  
23                  expected of us to do that. So I think really  
24                  it's just a question of direction and mandate  
25                  and, you know, as Carlos said, that Form B and

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1           as your own report has indicated a lot of that  
2           information is there already. So I think that's  
3           just an area where with clear direction, I think  
4           there's more that can be done for sure.

5           MS. PATEL: Thank you. Mr. Commissioner, those are  
6           my questions for these witnesses. And with  
7           apologies for running a little bit late.

8           THE COMMISSIONER: All right. So I think you  
9           indicated that the panelists were content to  
10          sit -- or at least to carry on until 3:00. But  
11          if we're going to finish with them, I think we  
12          have approximately 45 more minutes, so perhaps  
13          we ought to canvass whether we can carry on  
14          today or whether we'll need to find some  
15          additional time. As far as the panelists are  
16          concerned, Mr. Danakody, are you available for a  
17          period? Or I'll just do the panelists first and  
18          then perhaps the --

19          MS. PATEL: Mr. Commissioner, I'm sorry, I'm sorry to  
20          interrupt, but I do have an update before you  
21          canvass the panelists. I have an update from  
22          Mr. Martland that there's approximately  
23          25 minutes of cross time estimated now.

24          THE COMMISSIONER: All right. Thank you. So given  
25          that, Mr. Danakody, I'll just start with you

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1                   because you're at the top of my list here.

2           A       (RD) I am, Mr. Commissioner, happy to stay on.

3           THE COMMISSIONER: Thank you. Mr. MacDonald.

4           A       (CM) I'm available.

5           THE COMMISSIONER: Mr. Blaschuk.

6           A       (LB) Likewise.

7           THE COMMISSIONER: And Mr. Steves.

8           A       (GS) Absolutely.

9           THE COMMISSIONER: Thank you. I'm grateful to you  
10                   all for that. So unless there are any  
11                   participants that require a quick adjournment or  
12                   are unable to proceed, I think we can probably  
13                   carry on. But I'll leave it open now for any  
14                   participant to raise any issue. All right.

15                   Hearing nothing, I'll turn to Ms. Friesen, who  
16                   for the province has been allocated 15 minutes.

17           MS. FRIESEN: Thank you, Mr. Commissioner. And as a  
18                   result of the questions by Ms. Patel, I have no  
19                   questions for these witnesses.

20           THE COMMISSIONER: Thank you, Ms. Friesen.

21                   Ms. Herbst on behalf of the Law Society of  
22                   British Columbia, who has been allocated five  
23                   minutes.

24           MS. HERBST: Thank you very much.

25

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Gregory Steves (for the commission)  
Exam by Ms. Herbst

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1                   **EXAMINATION BY MS. HERBST:**

2                   Q     And I just have a small question that I wanted  
3                             to clarify arising out of one of the documents  
4                             put forward today.  And I don't think we need to  
5                             go to it.  It's just a -- there was a title  
6                             search print put forward as a sample of what one  
7                             might find in the registry, and it says at the  
8                             top "current information only.  No cancelled  
9                             information shown."  I just wanted to ask any of  
10                            the panelists is it also, though, an option if  
11                            you do wish to have cancelled information shown  
12                            to pick that and at least get a sense of prior  
13                            charges on this piece of -- or a given piece of  
14                            property.

15                  A     (LB) So the answer is yes, there's a drop-down  
16                             box when you're doing your search whether you've  
17                             got current, historic or cancelled information  
18                             that shows.

19                  MS. HERBST:  Thank you very much.  And thank you as  
20                             well.  Given Ms. Patel's canvassing of topics,  
21                             that's the sum of my questions.  Thank you.

22                  THE COMMISSIONER:  Thank you, Ms. Herbst.

23                            Mr. Usher on behalf of the Society of  
24                            Notaries Public of British Columbia, who has  
25                            been allocated five minutes.

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Exam by Mr. Usher

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

2 **EXAMINATION BY MR. USHER:**

3 Q I think it would be fair to say that money  
4 laundering is associated with the corruption of  
5 officials in government and related agencies.  
6 Can you comment if there's any history of  
7 corruption of staff at the land title office  
8 that has ever led to unauthorized access or  
9 unauthorized alteration of records.

10 A (LB) So I've been here since 2008, and the  
11 answer is zero in my knowledge.

12 Q Thank you. I'm assuming you must have occasion  
13 and in two ways to deal with police agencies.  
14 Can you tell us how you deal with inquiries from  
15 police agencies when they're looking for  
16 information and documents.

17 A (LB) So they'll usually find their way to my  
18 desk. They're usually done over the front  
19 counter. We tell them what the fees are going  
20 to be, what the parameters are going to be and  
21 they provide us with the information they're  
22 looking for. Once we've agreed on the payment  
23 of the fee, then it proceeds, and they get the  
24 information that they've asked for.

25 Q I take it is there a way in the act in your

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1 procedure to give records that are suitable for  
2 presentation in court by police agencies?

3 A (LB) Yes. The *Land Title Act* provides that a  
4 record that's issued from the land titles is  
5 conclusive evidence as to what it says in a  
6 court.

7 (CM) I think there's a -- is it  
8 section 38(4)? Or 36-4. In the 30s, you can  
9 have that certified with a fancy stamp as well.

10 (LB) Correct.

11 Q I take it would be on the case you on occasion  
12 discover frauds, and again on those occasions do  
13 you refer them to the police agencies and can  
14 you comment on what your experience is with  
15 that?

16 A (CM) Maybe I'll take that. We do occasionally  
17 come across fraud. Unfortunately for the most  
18 part it -- the fraud has already happened by the  
19 time -- in the vast majority of cases, so  
20 generally the police have already been involved.  
21 And that said, we have had a couple of  
22 situations where we have encountered what looks  
23 to be an attempted fraud and we'll contact the  
24 police with I would say limited -- limited  
25 satisfaction, and maybe I'll leave it at that.

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1 I don't know if Larry, if you wanted to ... add  
2 anything.

3 (LB) Thanks, Carlos. "Limited" would be the  
4 word that I would use as well. The ability to  
5 catch the attention of law enforcement officials  
6 for would what's happened in the register  
7 usually long after the fact -- sometimes it's  
8 more current than that -- has been minimal.

9 Q Thank you. You've mentioned that government,  
10 internal government inquiries are not charged  
11 fees, but I take it it is the case that  
12 statutory regulatory bodies like the real estate  
13 council, the Law Society and the Society of  
14 Notaries in fact do pay full fees for access to  
15 your information?

16 A (CM) That's the case. On occasion we'll have --  
17 I'm trying to think. If a lawyer or a notary  
18 has gone rogue, and thankfully that very rarely  
19 happens, we'll occasionally get requests not for  
20 land title records per se, but for records  
21 related to, for example, their Juricert, you  
22 know, what things have they signed. I think on  
23 those occasions we provide that information and  
24 I don't believe we charge a fee typically.

25 (LB) Likewise with the use of their myLTSA

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Exam by Mr. Usher

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1 accounts. The information that's in there,  
2 that's provided.

3 Q Thank you. And finally in regard to Land Owner  
4 Transparency Registry searches, I take it in the  
5 act that LSBC, that's the Law Society, is an  
6 authorized regulator for searches under  
7 section 34, but at this point the Society of  
8 Notaries Public is not an authorized regulator  
9 for the purpose of creating -- making those  
10 searches?

11 A (RD) That's correct, Mr. Usher. Currently the  
12 Society of Notaries Public BC is not an  
13 authorized regulator. If the society is added  
14 on as a regulator by way of a regulatory  
15 amendment, we can certainly make that available,  
16 the full access to transparency records.

17 MR. USHER: Thank you. That is all my questions.

18 THE COMMISSIONER: Thank you, Mr. Usher.

19 I'll now turn to Ms. Magonet for the British  
20 Columbia Civil Liberties Association, who has  
21 been allocated five minutes.

22 MS. MAGONET: Thank you, Mr. Commissioner. Having  
23 heard the evidence today, I have no questions.

24 THE COMMISSIONER: Thank you, Ms. Magonet.

25 I'll turn, then, to Ms. Dickson on behalf of



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1                   the Canadian Bar Association and the Criminal  
2                   Defence Advocacy Society, who has been allocated  
3                   five minutes.

4                   MS. DICKSON: Thank you, Mr. Commissioner.

5                   Similarly, I do not have any questions for these  
6                   witnesses.

7                   THE COMMISSIONER: Thank you, Ms. Dickson.

8                   I will then turn to Mr. Rauch-Davis for  
9                   Transparency International Coalition, who has  
10                  been allocated 10 minutes.

11                  MR. RAUCH-DAVIS: Thank you.

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

13                  Q     My questions to be directed to you, Mr.  
14                  Danakody, about the *LOTA* as you've been  
15                  referring to it today --

16                  THE COMMISSIONER: I'm sorry to interrupt you,  
17                  Mr. Rauch-Davis. I don't know if others are  
18                  having the same difficult, but I'm having some  
19                  difficulty in hearing you.

20                  THE WITNESS: (RD) Yes, I am as well.

21                  MR. RAUCH-DAVIS: Okay. One second. Can you hear me  
22                  now?

23                  THE COMMISSIONER: Yes, that's much better.

24                  MR. RAUCH-DAVIS: Probably a headphone issue. Thank  
25                  you.

1           Q     Mr. Danakody, I take it you would agree with me  
2                     that the verification of information going into  
3                     the LOTR is reactive?

4           A     (RD) Can you expand on that a little bit. I'm  
5                     not clear as to what you mean by reactive.

6           Q     Sure. And that is that no registry individuals  
7                     or workers will be taking proactive steps to  
8                     verify the information as it comes in, the  
9                     accuracy of the information.

10          A     (RD) So the -- if I could describe it. Here's  
11                     what's happening. There's this bunch of work  
12                     that is done upstream by the various financial  
13                     regulators, legal professionals in preparation  
14                     for the ultimate filing of that application to  
15                     the land titles. That also includes the  
16                     preparation and of course collecting of  
17                     information by reporting bodies and of course  
18                     the legal professionals are then filing it on  
19                     behalf of their clients. And so there's a bunch  
20                     of other verification work that goes on prior to  
21                     that entire set of package coming in through the  
22                     door through the LTSA. Which I can't speak as  
23                     to, you know, what voracity goes into that work.  
24                     Now, when it comes to the LTSA, the registrar,  
25                     as I mentioned in my testimony, is not required

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1                   to look into the veracity of the information,  
2                   other than the requirements are met under *LOTA*.

3                   However, the administrator does have some  
4                   authority within *LOTA* to look into the  
5                   information and to conduct audits either on the  
6                   administrator's own volition or under the  
7                   instruction of the enforcement officer of the  
8                   Minister of Finance. And those two rules kind  
9                   of work together in that the administrator can  
10                  ask for information to validate or verify  
11                  certain information, proof of information as set  
12                  out in section 58 of the act.

13                  Now, what the administrator cannot do is of  
14                  course enforce the compliance, because that  
15                  authority solely lies within the enforcement  
16                  officer as set out in part 4 of *LOTA*. So is  
17                  there verification going on? Well, to some  
18                  degree. And if I could explain this. When we  
19                  received the land title application, we're also  
20                  receiving concurrently the transparency  
21                  declaration and a transparency report. Now, is  
22                  it possible that the information, the transferee  
23                  name in a land title application slightly  
24                  differs from the transferee name as contained in  
25                  the transparency deck and the report? Yes, it

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1                   could and it's happened and I've seen it. And  
2                   so in those cases, we are actually doing a name  
3                   matching to ensure that ultimately we are  
4                   matching up against -- the transparency records  
5                   match up against the land title application. So  
6                   if they don't match up, it actually kicks it out  
7                   so that we have to manually actually look at  
8                   what was filed. So there's that degree of  
9                   verification. And as I mentioned earlier, I  
10                  might have covered that, in the administration  
11                  of the applications section 40 and section 42,  
12                  section 40 is an application to omit information  
13                  if health or safety is at risk, which can be  
14                  applied by an individual who is an interest  
15                  holder or settler. And section 42 is an  
16                  application to change or correct information.

17                  In those two, the administration of those  
18                  two applications, we do require the applicant to  
19                  provide SIN number, date of birth and a  
20                  government-issued ID to ensure that we are in  
21                  fact corresponding and dealing with the right  
22                  person who is seeking to be omitted from public  
23                  search, et cetera. So there's some of that  
24                  going on. Are we checking the  
25                  5,700 transparency reports that have come in to

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1                   date? Are we checking for identity on every one  
2                   of them? Not right now. Do we have the ability  
3                   to undertake audits, various types of audits and  
4                   analysis to support the enforcement officer or  
5                   the Ministry of Finance? Yes, we could.

6                   Q     And those audits that you referred to there,  
7                   that kind of informed my first question which is  
8                   that they're reactive. They are done as  
9                   either -- some information comes to your  
10                  attention that would lead the administrator to  
11                  conduct that audit or it's just a blind spot  
12                  check, if I can put it that way?

13                 A     (RD) I think that's fair comment. So the one  
14                  thing that we do want to keep in mind is when  
15                  you do -- put an audit of that level of  
16                  information that's coming through together with  
17                  a land title application, so bearing in mind  
18                  you've got potentially a Form A application and  
19                  then you've got a transparency deck and a  
20                  transparency report, the verification process  
21                  depending on how rigid the statute requires --  
22                  in this case it doesn't right now, but depending  
23                  on how much rigidity you put into that process  
24                  could slow down or put a barrier to closing  
25                  transactions in a timely manner, which is of

1 course always a concern with buyers, sellers and  
2 of course lenders and of course at the end of  
3 the day legal professionals to be able to close  
4 and register that title on time.

5 Q Isn't this more of a resource issue?

6 A (RD) 100 percent. We're not resourced to --  
7 certainly our business model and we built our  
8 business model to support the prevailing  
9 legislation as it stands. We are certainly not  
10 resourced to undertake a thorough review of  
11 every single application that comes in through  
12 the door.

13 Q And I believe I have a note that you are at  
14 least aware of the provincial federal working  
15 group on real estate. Right?

16 A (RD) I've been aware through these proceedings  
17 and previous hearings that I've been privy to.

18 Q In one of the findings, I believe it was in work  
19 stream 1's report, in that working group, was  
20 that the accuracy of the data in *LOTA* is an  
21 issue or at least a potential issue because  
22 there's no proactive verification, if I can put  
23 it that way. Are you aware of that?

24 A (RD) I am aware of the statement in the  
25 document, yes.

1 Q Yeah. And so I guess my question to you is has  
2 there been any consideration to implementing a  
3 more proactive system of identification or  
4 information verification?

5 A (RD) I take my direction from *LOTA*, the statute,  
6 which doesn't require that level of  
7 verification. Certainly the statute is very  
8 clear as to what the registrar is not required  
9 to do under section 80 of *LOTA*.

10 Q I understand that you might not be in the best  
11 position to answer some of these questions, but  
12 you're not aware of any conversations about  
13 implementing a new more proactive system of  
14 identification verification?

15 A (RD) I am not.

16 Q Okay. The next kind of group of questions are  
17 about the sanctions under *LOTA*. You're familiar  
18 with the penalties. And that they're fines up  
19 to \$50,000 or 15 percent of max property value?

20 A (RD) That's my understanding in accordance with  
21 the sections covered under the enforcement  
22 officer, yes.

23 Q Right. And again -- let me just ask the  
24 question. Isn't there -- do you perceive some  
25 sort of risk that the sanctions aren't

1                   significant enough in that they won't have the  
2                   deterrent effects intended but money launderers  
3                   could just see them as doing cost of doing  
4                   business, 15 per of your investment if you want  
5                   to put it that way?

6           A       (RD) Yeah, I am unfortunately not probably in  
7                   the best position to comment on that because I  
8                   wasn't part of the drafting of the legislation.  
9                   Certainly the analysis or the thinking behind  
10                  how those thresholds were arrived, so  
11                  unfortunately I'm unable to provide commentary  
12                  on that.

13          Q       And you're not aware of any discussions to that  
14                  effect or revolving around that type of issue?

15          A       (RD) I'm not.

16          Q       Okay. And -- but I take it you know that there  
17                  aren't any prison sentences. Prison sentences  
18                  aren't contemplated as a penalty under *LOTA*, for  
19                  false filings under *LOTA*?

20          A       (RD) I believe so. That's my understanding.

21          Q       So to some of the mechanics about *LOTA*. There's  
22                  been some evidence today about the potential use  
23                  of unique identifiers. And you know what I mean  
24                  when I reference that; right?

25          A       (RD) Yes, I do.



1           Q     So has your office considered implementing a  
2                   unique identifier for the beneficial owner under  
3                   *LOTA*?

4           A     (RD) During the build of the registry, and so  
5                   that really period from August 2019 onward  
6                   throughout the build, in the early stages of the  
7                   build we did consider the notion of a unique  
8                   identifier. But as my colleagues also described  
9                   previously, we really ran into a bit of a brick  
10                  wall in terms of, you know, that identifier for  
11                  interest holders is very unique and it's going  
12                  to be -- the origination is from the LTSA, how  
13                  would it be used, utilized outside for any other  
14                  purposes and so -- but there's a broader impact  
15                  to this, not just from a Land Owner Transparency  
16                  Registry perspective but the LTSA, call it the  
17                  land title register as well. So we're not -- we  
18                  were not able to sort of unilaterally make a  
19                  decision on here's what we're going to do on  
20                  LOTR without giving consideration to how is that  
21                  going to impact or support or assist the  
22                  registry itself, the register, land title  
23                  register.

24          Q     I take it you agree that a unique identifier for  
25                  the owner, for the individual, would assist, and

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1                   I think one of your colleagues on the panel  
2                   today gave the example of knowing whether John  
3                   Smith owns 12 properties or whether 12 John  
4                   Smiths own one property each. You would agree  
5                   that a unique identifier could help solve that  
6                   problem?

7           A       (RD) It would definitely solve a lot of  
8                   problems, you know, both from an administration  
9                   standpoint and from an automation standpoint as  
10                  well. But also recognize there's -- I'm not  
11                  going to repeat what was said earlier, but you  
12                  know, sort of the mechanics of it and how does  
13                  that get shared, and as always, we're always  
14                  mindful of, you know, how does that impact  
15                  privacy and there's *FIPPA* considerations; right?  
16                  So ...

17                         (GS) I would just add that, you know, the  
18                         act doesn't have the requirement for a unique  
19                         identifier, but it is something that we're  
20                         conscious of and it's something that we have or  
21                         are considering as we move forward both with the  
22                         land title registry and with *LOTA*.

23           MR. RAUCH-DAVIS: All right. Thank you. I'm being  
24                         told I'm out of time. So those are my  
25                         questions. Thank you.

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1 THE COMMISSIONER: Thank you, Mr. Rauch-Davis.

2 Is there anything arising, Mr. Usher?

3 MR. USHER: No, Mr. Commissioner.

4 THE COMMISSIONER: Thank you. Ms. Herbst?

5 MS. HERBST: No, Mr. Commissioner. Thank you.

6 THE COMMISSIONER: Thank you. And Ms. Patel?

7 MS. PATEL: Nothing for myself. I just point out

8 that the panel is here with their counsel

9 Mr. Langlois.

10 MR. LANGLOIS: Thank you, Ms. Patel.

11 Mr. Commissioner, I don't have any questions on

12 redirect.

13 THE COMMISSIONER: Thank you. I would like to thank

14 the panel for their time and attention to this

15 matter. It's a very interesting area for the

16 commission to explore and will certainly figure

17 in our consideration of recommendations in the

18 final report, so it has been a very helpful and

19 I am grateful for the time you've taken to lead

20 us through this area. You are excused from

21 further testimony.

22 **(WITNESSES EXCUSED)**

23 THE COMMISSIONER: I think Ms. Patel we're now going

24 to adjourn until March 29th. There's a two-week

25 hiatus.

1 MS. PATEL: There is. Mr. Commissioner, I'm going to  
2 clean up -- I'm sorry to pile one thing at this  
3 time. But just with respect to the exhibit that  
4 was marked conditionally as 744.

5 THE COMMISSIONER: Yes.

6 MS. PATEL: I've been informed in the interim that  
7 it's actually already an exhibit that's been  
8 marked as 346, and so there's no need to mark  
9 that again.

10 THE COMMISSIONER: All right. So it won't be --  
11 sorry, the conditional marking will be unmarked.  
12 If I can put it that way. All right. Thank  
13 you. That's helpful.

14 So we will adjourn till March 29th, at 9:30.  
15 Thank you Ms. Patel and Ms. Rose for your  
16 efforts today. All right. We'll adjourn.

17 THE REGISTRAR: The hearing is now adjourned until  
18 March 29th, 2021 at 9:30 a.m. Thank you.

19 **(PROCEEDINGS ADJOURNED AT 3:19 P.M. TO MARCH 29,**  
20 **2021)**

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