

# Commission of Inquiry into Money Laundering in British Columbia

## Application for Standing – Ruling #11

Ruling of the Honourable Austin Cullen, Commissioner

Issued October 16, 2020

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### A. BACKGROUND

[1] This ruling addresses an application brought by Chartered Professional Accountants of Canada (“**CPA Canada**”) for leave to participate in the Commission of Inquiry into Money Laundering in British Columbia (“**Commission**” or “**Inquiry**”) pursuant to s. 11(3) of the *Public Inquiry Act*, S.B.C. 2007, c. 9 (the “**Act**”).

[2] The deadline to seek participant status was September 6, 2019. CPA Canada seeks a preliminary order extending the time to bring its application for standing. In the interests of the efficient and effective conduct of the Inquiry, I order an extension of time for CPA Canada to bring this application pursuant R. 5 of the Commission Rules of Practice and Procedure.

### B. LAW

[3] I reviewed the mandate of the Commission and the relevant law in respect of applications to participate in my September 24, 2019 ruling (the “**September Ruling**”).

[4] The statutory provisions that govern applications for participant status are ss. 11(4)(a)-(c) of the *Act*. Those sections read as follows:

11(4) On receiving an application under subsection (3), a commission may accept the applicant as a participant after considering all of the following:

- (a) whether, and to what extent, the person's interests may be affected by the findings of the commission;
- (b) whether the person's participation would further the conduct of the inquiry;

(c) whether the person's participation would contribute to the fairness of the inquiry.

[5] The relevant considerations in determining whether to grant participant status include (September Ruling at para. 11):

- a. the nature and extent of the applicant's rights or interest;
- b. why standing is necessary to protect or advance the applicant's rights or interest;
- c. whether the applicant faces the possibility of adverse comment or criticism with respect to its conduct;
- d. how the applicant intends to participate, and how this approach will assist the Commission in fulfilling its mandate;
- e. whether and how the applicant's participation will contribute to the thoroughness and fairness of process;
- f. whether the applicant has expertise and experience relevant to the Commission's work;
- g. whether and to what extent the applicant's perspective or interest overlaps or duplicates other applicants'; and
- h. whether the applicant may participate in another capacity — for example, as a witness who may testify — instead of being granted formal standing.

[6] The Commission relies on the submissions of applicants to assess whether their rights and interests might be affected over the course of the Commission process. Consideration of whether an applicant's participation will contribute to the fairness of the process requires attention to the non-exhaustive list of factors outlined in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817.

### **C. CPA CANADA**

[7] CPA Canada is the national organization that represents Canada's accounting profession domestically and internationally. It resulted from the 2014 unification of Canada's three legacy accounting designation bodies: the Canadian Institute of Chartered accountants, the Society of Management Accountants of Canada, and the Certified General Accountants Association of Canada.

[8] CPA Canada has over 220,000 members who, through provincial, territorial or Bermudian legislation, have obtained the chartered professional accountant (“CPA”) designation, or who possess a legacy designation.

[9] CPA Canada is not a regulator, but works cooperatively on anti-money laundering with CPA provincial and territorial regulatory bodies, including the Chartered Professional Accountants of British Columbia (“CPABC”). To this end, CPA Canada acts in the public interest by providing expertise to relevant stakeholders, supporting the setting of accounting and auditing standards and guidelines, and taking a leadership role in the education and continuing professional development of the accounting profession.

#### **D. SUBMISSIONS**

[10] CPA Canada says that it has an interest in the Commission’s mandate, which may result in findings and recommendations that might impact the accounting profession. CPA Canada submits that its participation is likely to further the Inquiry by providing document production and witnesses that will provide evidence in respect of the accounting profession generally, the profession’s standards and responsibilities, government consultations regarding anti-money laundering policy, legislation and regulations, anti-money laundering efforts in the international accounting profession, and CPA Canada’s specific anti-money laundering initiatives.

[11] CPA Canada further submits that procedural fairness requires that it have a fair opportunity to receive and respond to evidence likely to be tendered by Commission counsel in respect of the accounting profession, examine and propose witnesses, provide evidence, and make closing submissions.

[12] In support of its submissions, CPA cites a number of activities it has undertaken in the public interest with respect to anti-money laundering. These activities include advocacy efforts as an intervener, policy submissions to government and related entities, and, in particular, submissions to FINTRAC made as part of its consultation on the *Money Laundering and Terrorist Financing Risk-Based Approach Guideline for Accountants*.

## **E. DISCUSSION**

[13] The Commission's Terms of Reference require it to make findings with respect to the extent, growth, evolution and methods of money laundering in the accounting sector. The Terms of Reference also require findings of fact with respect to the acts or omissions of individuals or authorities with powers, duties or functions in respect of the accounting sector, and the scope and effectiveness of those powers, duties or functions carried out by relevant individuals or authorities.

[14] I agree that CPA Canada has an interest in the subject matter of the Inquiry. CPA Canada does not regulate accountants in British Columbia. It is, however, the national organization that drives much of the accounting profession's response to anti-money laundering policy and initiatives. As such, CPA Canada may be required to respond to findings and implement recommendations with respect to the accounting sector and thus has a *bona fide* interest in responding to evidence tendered by Commission counsel, and in offering evidence of its own. This factor under s. 11(4)(a) of the *Act* weighs in favour of granting participant status.

[15] I also agree that CPA Canada's participation would further the conduct of the Inquiry and contribute to its fairness. On the former factor, CPA Canada will bring expertise relevant to the accounting profession in Canada, the accounting profession's anti-money laundering standards, responsibilities and policy perspectives on the same, and CPA Canada's specific anti-money laundering education and initiatives. To the degree that the Commission makes findings and recommendations that touch on the profession, I am of the view that it does so best with this information at hand. CPA Canada may also assist the Commission in understanding the relevant issues and evidence through the lens of the accounting profession and, thus, contribute to the Inquiry's fairness. These factors under ss. 11(4)(b)-(c) weigh in favour of granting participant status.

[16] I am satisfied that CPA Canada meets the criteria for participant status. Accordingly, I grant standing to CPA Canada with respect to the professional service

sector. I note that, in light of my ruling issued September 29, 2020, CPA Canada must ensure that its contribution does not duplicate that of CPABC.

A handwritten signature in cursive script, appearing to read "Austin Cullen".

Commissioner Austin Cullen