

Commission of Inquiry into Money Laundering in British Columbia

Application for Standing – Ruling #14

Ruling of the Honourable Austin Cullen, Commissioner

Issued November 5, 2020

A. BACKGROUND

[1] This ruling addresses an application for leave to participate in the Commission of Inquiry into Money Laundering in British Columbia (“**Commission**” or “**Inquiry**”) under ss. 11(3) and (4) of the *Public Inquiry Act*, S.B.C. 2007, c. 9 (“**Act**”) brought by Paul King Jin.

[2] The deadline to seek participant status was September 6, 2019. Mr. Jin seeks an extension of time for his application for standing, explaining that he only recently learned of the manner in which the evidence being led gives rise to the need to apply for participant status. In the interests of the efficient and effective conduct of the Inquiry, I order an extension of time for Mr. Jin to bring this application pursuant to R. 5 of the Commission’s 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 interests;
- 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.

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[7] In the course of his application for participant status, Mr. Jin has not provided any sort of biographical detail about himself. Based on information and evidence before the Commission, however, his name has been identified as allegedly involved in money laundering activity, in particular in relation to a large criminal investigation by the RCMP which led to charges, albeit charges that ultimately did not proceed to trial. He is likewise the subject of civil forfeiture proceedings which are presently before the British Columbia Supreme Court.

D. SUBMISSIONS

[8] Through his counsel, Mr. Jin advises that he had been cautious about whether and when to seek participant status, but as recent evidence has unfolded

before the Commission, along with evidence expected to be tendered in the days and months ahead, he now seeks to be granted status as a participant. His counsel says that in the past two to three weeks, Mr. Jin has become aware that evidence may be tendered in the Commission hearings that could negatively impact his reputation, relating to allegations of money laundering, “loansharking”, and other alleged illegal activity. Counsel candidly says he had contemplated simply making submissions at the conclusion of evidence with respect to any findings that could be made in relation to Mr. Jin, but as the evidence has unfolded, he has changed his view.

[9] Commencing on October 26, 2020, the Commission has been receiving evidence with respect to the gaming and horse racing sector. Mr. Jin refers specifically to the evidence led since October 26: it includes reference to surveillance evidence as well as general testimony suggesting Mr. Jin has been engaged in money laundering and loansharking relating to activities at British Columbia casinos. There has also been evidence, he points out, about liaising between casino investigators and police units including the RCMP and the Combined Forces Special Enforcement Unit BC, which relates to investigations involving Mr. Jin.

[10] Mr. Jin is looking ahead to the possibility of the Commission making findings of fact, and his need to be in a position to ask questions of a witness providing evidence about his activities as well as those associated with him. In short, he seeks the opportunity not to simply learn about what has been said, but to be involved in the process of evidence being tendered, including an ability to challenge witnesses and evidence as necessary.

[11] Mr. Jin does not seek a broad grant of standing. He has expressed no interest in becoming involved in general policy issues. Instead, he says that the sole purpose of him questioning witnesses will be to address findings relating to him and those associated to him. Likewise, he seeks to make submissions on those issues but not more generally on policy and reform issues.

[12] Citing the considerations identified within s. 11 of the *Act*, Mr. Jin says that his interests may be impacted by the findings of the Commission, in particular relating to his activities. Mr. Jin says that his participation would contribute to the fairness of the inquiry, and would ensure that a fair process is employed, one that includes him being able to ask relevant questions and make submissions. Furthermore, Mr. Jin

submits that standing is necessary to protect or advance his rights or interests, and that he faces the possibility of adverse comment or criticism with respect to his conduct.

E. DISCUSSION

[13] Mr. Jin has put forward a cogent argument in support of standing before the Commission. He has identified the nature and extent of his rights or interests, which, based on evidence and information already put forward, does give rise to a potential for findings that directly affect him. It is fair and appropriate that he be permitted to participate in the evidentiary process, and make submissions, specifically to safeguard his interests and to ensure the fairness of the Commission process.

[14] The manner in which Mr. Jin seeks to participate is appropriately restrained. He will not be seeking to engage on general policy questions; his participation will focus on areas where his interests are engaged. That sort of restrained approach is to be encouraged and is one that would indeed assist the Commission in fulfilling its mandate. I am also of the view that the proposed form of participation in this instance will contribute to the thoroughness and fairness of the Inquiry process. Pursuant to the Commission's Rules, in particular R. 13, as a participant Mr. Jin will be required to list records and produce them if requested.

[15] Based on all of these considerations, I conclude that Mr. Jin meets the criteria for participant status.

[16] Accordingly, I grant standing to Mr. Jin, on the following basis. Mr. Jin may be involved in the public hearing, questioning witnesses, making submissions and exercising the rights of a participant, but only insofar as it relates to evidence that affects his interests or engages him specifically. He is not granted a broader form of participant status that would permit him to address general topics. Our Commission has organized its hearings process by way of identifying a series of discrete topic areas, and in many instances participants have standing for one topic area but not another (for instance, on gaming and horse racing but not on real estate). For Mr. Jin, however, the form of participant status granted is not based on topic area, but rather in relation to wherever the evidence being led gives rise to the possibility of having an impact on his rights. Mr. Jin's rights as a participant are, as for all participants, subject to variation and modification to address any issues that arise.

[17] Mr. Jin will, as noted above, be subject to the Commission's Rules of Practice and Procedure, and must avoid duplication of the contributions of other participants.

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

Commissioner Austin Cullen