

Commission of Inquiry into Money Laundering in British Columbia

Application for Standing – Ruling #21

Ruling of the Honourable Austin Cullen, Commissioner

Issued December 4, 2020

[1] On November 20, 2020, the Commission received an application from the B.C. Civil Forfeiture Office (the “CFO”) for a limited grant of standing to participate in the portion of the Commission’s evidentiary hearings devoted to asset forfeiture.

[2] The CFO is part of the Ministry of Public Safety and Solicitor General and operates under the authority of the *Civil Forfeiture Act*, S.B.C. 2005, c. 29 (the “*Civil Forfeiture Act*”).

[3] Under s. 3 of that legislation, the director designated by the Minister under s. 21 may apply to the Supreme Court of British Columbia for an order forfeiting to the government the whole or a portion of an interest in property that is the proceeds of unlawful activity or that is an instrument of unlawful activity.

[4] In certain circumstances, the director can also initiate administrative proceedings to seize property, other than real property, that is the proceeds of unlawful activity or an instrument of unlawful activity.

[5] The CFO submits that its interests are broadly engaged by the Commission’s Terms of Reference insofar as the current civil forfeiture regime will be the subject of evidence during the evidentiary hearings and may be affected by the Commission’s findings of fact and recommendations.

[6] The CFO further submits its interests are engaged as a result of Ruling #14, in which I granted limited participant status to Paul King Jin.

[7] More specifically, it submits that there are extant civil actions commenced by the CFO involving Mr. Jin and that “potential issues arising from this change in circumstances require the CFO to seek participant standing to safeguard its interests and ensure that ongoing litigation under the [*Civil Forfeiture Act*] is not adversely affected.”

[8] Finally, the CFO submits that its expertise and perspective may be of value to the Commission during the asset forfeiture portion of the evidentiary hearings.

[9] On November 27, 2020, I sent a memorandum to Cherisse Friesen, counsel for the CFO, seeking further submissions with respect to the following issues:

- a) Whether it is necessary to treat the Civil Forfeiture Office as a separate entity from the Government of British Columbia; and
- b) Whether it would be more efficacious to grant standing to the Government of British Columbia to represent any entity, agency, department or ministry that may become engaged in the Commission process.¹

[10] On December 2, 2020, I received a supplemental submission from Ms. Friesen acceding to the view that a single grant of participant status to Her Majesty the Queen in Right of the Province of British Columbia (“HMTQ”) is an appropriate and practical way of proceeding.

[11] Ms. Friesen also suggested that I convert the grant of participant status previously given to the Ministry of Finance and GPEB to HMTQ as a representative of the various provincial entities who have been or may be involved in the Inquiry process.

[12] However, she reiterated that the grant of participant status to Mr. Jin raises unique considerations for the CFO and sought leave for the CFO to have its counsel, Michael Lawless, attend the asset forfeiture segment of the evidentiary hearings.

¹ Ruling #1 granted participant status to the Ministry of Finance and the Gaming Policy and Enforcement Branch (“GPEB”) but it is now apparent that the interests of numerous provincial entities, agencies, departments and ministries have been and will continue to be engaged in the Inquiry.

[13] I am satisfied that it is necessary and appropriate to replace the grant of participant status previously given to the Ministry of Finance and GPEB with a single grant of participant status to HMTQ as a representative of the various provincial entities which have been or may be involved in the Commission process. HMTQ will have standing with respect to all matters set out in the Commission's Terms of Reference.

[14] I also grant leave for Mr. Lawless to attend the asset forfeiture portion of the evidentiary hearings provided that only one examination is conducted on behalf of HMTQ.

[15] I will resolve any issues concerning the relevance and admissibility of evidence concerning litigation commenced by the CFO as they arise during the evidentiary hearings.

A handwritten signature in black ink, appearing to read "Cullen", written in a cursive style.

Commissioner Austin F. Cullen