

**COMMISSION OF INQUIRY INTO MONEY LAUNDERING IN BRITISH COLUMBIA**

**FINAL WRITTEN SUBMISSIONS OF THE BRITISH COLUMBIA REAL ESTATE  
ASSOCIATION**

**JULY 9, 2021**

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**PART 1**  
**ANTI-MONEY LAUNDERING AND THE BC REAL ESTATE SECTOR**

**A. Description of the British Columbia Real Estate Association (“BCREA”)**

1. The BCREA represents the interests of the over 23,000 licensed realtors in the province of British Columbia. The BCREA was granted participant standing in this Inquiry on the basis it would provide the Commissioner with a non-governmental, real estate sector industry perspective in relation to the Inquiry’s pertinent Terms of Reference. The BCREA’s primary activity in the Inquiry was to make available a private sector “boots on the ground” perspective to the Commissioner through its witness panel, consisting of its Chief Executive Officer, Ms. Darlene Hyde, and the BCREA’s Chief Economist, Brendon Ogmundson. The BCREA panelists each appeared and were subject to examination on February 17, 2021.<sup>1</sup> The BCREA also provided volumes of documents and materials which are found at Exhibits 621-632.

2. In these submissions, Part 1 will both provide an overview of the BCREA’s position on general anti-money laundering efforts and specific issues within the BC real estate industry. Part 2 will respond to those questions relevant to real estate put forward by Commission counsel on May 21, 2021 in response to the Commissioner’s Ruling 32.

3. The BCREA’s membership includes the province’s ten local member boards.<sup>2</sup> BCREA seeks to represent its membership and provide an industry voice before government, licensing, and regulatory bodies where matters which impact its members are under consideration. Noteworthy, the BCREA has no licensing or regulatory authority.

4. The BCREA takes regulation and legislative matters seriously and recognizes the importance of industry participation in efforts to combat money laundering. The BCREA submits the probability of success of any efforts by government, law

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<sup>1</sup> Transcript, February 17, 2021.

enforcement, and regulators to combat money laundering are greatly increased where there is a strong alignment of the methods and approaches to regulation with industry objectives of ensuring efficient, coordinated regulation with identifiable outcomes. Regulation which lacks efficiency and identifiable purpose serves neither government, industry, nor the public interest.

5. As a self-funded private entity, the BCREA receives no taxpayer funding. The priority it places on the topic of money laundering is evidenced by the significant investments of its members' resources in responding to the allegations of money laundering in real estate. These allegations began to emerge in media reports and provincial government pronouncements, as highlighted in the Terms of Reference Reports in 2018.<sup>3</sup> With a view to better understanding money laundering issues, BCREA immediately commenced communications with relevant parties such as the provincial government, the Financial Transactions and Reports Analysis Centre of Canada ("**FINTRAC**"), and the Real Estate Council of British Columbia ("**RECBC**"), and pursued a path of educating its membership on the issues. These efforts are ongoing and include participation in this Inquiry.

6. Real estate is a key sector of the British Columbia economy. As Ms. Hyde testified:

"In terms of the economic impact that we have, we represent about 10 percent of BC's GDP, the building, buying, and selling of homes. Tens of thousands of people employed plus knock-on effects from renos — renovations, furnishings, and professional services. There were almost 100,000 transactions in 2020 for a total value of 70 billion and significant contributions to the municipal and provincial taxes, including about 1.5 billion annually in the property transfer tax."<sup>4</sup>

7. On an industry level, the operation of this important sector of the economy—a sector which relies heavily on the concept of trust amongst parties—leaves no option for the BCREA but to take the issue of money laundering seriously. The BCREA has

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<sup>2</sup> Transcript, February 17, 2021 at page 82, line 18 to page 83, line 4.

<sup>3</sup> For an overview summary of BCREA's efforts, see Exhibit 601 at paras 99-117.

committed significant resources in its efforts, irrespective of the strength or weakness of evidence around quantification of the amount of any such money laundering activity. The BCREA and its members have actively pursued a culture of compliance and remain committed to furthering that pursuit.<sup>5</sup>

8. On another level, realtors are members of their communities and care deeply about the safety and health of their local environments. Concerns around money laundering and, at a base level, the prevention and prosecution of predicate crimes are of significant importance to realtors as good citizens.<sup>6</sup>

9. As noted in its panel's testimony, the BCREA has significantly increased its attention to the provincial government's stated concerns around money laundering since 2018.<sup>7</sup> At the core of real estate transactions, trust is necessary for the healthy functioning of the real estate sector and the building and preserving of public confidence in the parties and processes dealing with what is generally the largest purchase an average citizen makes in British Columbia.

10. The BCREA also by necessity developed an increased focus on the topic in response to unqualified speculative information in the media around the quantification of money laundering in the province. This topic will be addressed later in these submissions.

## **B. Response of the BCREA to the German Reports**

11. The activities of the BCREA in response to the German Reports<sup>89</sup> are set out in detail in Exhibit 601, the Overview Report on Money Laundering Literature on Real Estate and Industry Response. As highlighted in testimony, the key initiatives from the

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<sup>4</sup> Transcript, February 17, 2021, page 79, lines 14-24.

<sup>5</sup> Transcript, February 17, 2021, page 36, lines 6-11.

<sup>6</sup> Transcript, February 17, 2021, page 80, line 11 to page 81, line 13.

<sup>7</sup> Transcript, February 17, 2021, page 92, lines 8-13.

<sup>8</sup> Exhibit 832.

<sup>9</sup> Exhibit 833.

BCREA have been consultation, advocacy, and, most importantly, a focus on education of its members.<sup>10</sup>

12. As a result of the increased profile on money laundering and real estate, the BCREA contracted with expert professional resources to design, create, and implement an educational course on the anti-money laundering obligations of managing brokers. This comprehensive course, “Mastering Compliance - AML Training for Brokers” (the “**Mastering Compliance Course**”) is found at Exhibits 623A – 623F. The BCREA submits the Mastering Compliance Course highlights the critical ongoing effort of the BCREA to collaborate with regulatory bodies, such as FINTRAC and RECBC, to raise the level of communication and understanding between the regulators and the regulated. BCREA would urge the Commissioner to encourage collaboration of industry and the regulators to develop smart, practical, and efficient regulation. BCREA submits that a review of the contents of the Mastering Compliance Course will also assist the Commissioner in understanding the deep level of detail the industry is providing to its members in order to ensure realtors are well informed of their requirements. The level of detail is beyond what could be presented efficiently in oral testimony.

13. BCREA would highlight the Mastering Compliance Course is a voluntary course, in contrast to the course established by the provincial regulator, RECBC. RECBC has implemented additional mandatory money laundering training for real estate licences.<sup>11</sup> The implementation of two comprehensive courses on money laundering for the BC real estate sector by the BCREA and RECBC is important evidence of the seriousness with which the topic is being dealt with by the real estate industry. The Commissioner has evidence that shows the ongoing commitment of industry to build a culture of compliance.

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<sup>10</sup> Transcript, February 17, 2021, page 94, line 2 to page 95, line 3.

<sup>11</sup> Exhibit 617.

14. The BCREA has been working on an update to the Mastering Compliance Course in anticipation of FINTRAC changes in June of 2021 and to improve it based on the feedback received on the first run of the course.<sup>12</sup>

15. The BCREA is convinced that effectively attacking the money laundering issue requires strong communication and coordination with regulators to ensure efficient and effective regulatory processes, and submits this view is common to the regulatory bodies. The BCREA would urge the Commissioner to make recommendations which support industry participation and input on the regulatory steps to be pursued by government or regulatory agencies. Past experience has resulted in regulatory duplication, complication, and ineffective processes which have not always served the public interest in the most efficient manner.

16. BCREA has played an active role in addressing and contributing to anti-money laundering efforts prior to the implementation of this Inquiry. BCREA participated in the development of the Terms of Reference Reports underlying this process.<sup>13</sup> The BCREA also prepared a joint set of recommendations to the provincial and federal governments in coordination with the Appraisal Institute of Canada, the British Columbia Notaries Association, the Canadian Mortgage Brokers Association of BC, as well as the Real Estate Board of Greater Vancouver.<sup>14</sup>

17. These joint industry recommendations included the following:

1. **Accept only verified funds** – For sectors of real estate that are not already required to do so, we recommend that they accept funds only in forms that are verifiable through Canadian financial institutions.
2. **Mandatory anti-money laundering education** - We recommend the introduction of mandatory anti-money laundering education for all real estate professionals subject to the reporting requirements administered by the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) to ensure that those professionals are trained in recognizing

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<sup>12</sup> Transcript, February 17, 2021, page 89, lines 7-10.

<sup>13</sup> Transcript, February 17, 2021, page 94, lines 7-10.

<sup>14</sup> Exhibit 624.

and reporting suspicious transactions. FINTRAC should work with sector organizations, regulators and the provincial government to improve existing resources so that they better reflect real-world situations and improve compliance.

3. **Smart regulation** - We recommend that the federal government amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act to allow FINTRAC intelligence to be made available to additional regulatory authorities, including the BC Securities Commission and the Financial Institutions Commission (FICOM). Optimally, the federal and provincial governments, as well as their respective agencies, should coordinate their actions, share information, such as the provincial assignment registry, and create a comprehensive, efficient enforcement regime.
  4. **Ongoing engagement** - We recommend governments and regulatory agencies, including FINTRAC, better utilize on-the-ground experience of real estate professionals to develop compliance resources and test policy ideas. This will result in well-crafted, practical regulation and foster a culture of compliance to protect consumers and the economy.
  5. **Timely and transparent reporting** - We recommend that FINTRAC implement a framework to identify and report trends on a regular basis and in language that is consistent and understandable to professionals, the public and media. This reporting system should also include consistency in examinations with immediate feedback designed to help industry professionals improve their compliance systems.<sup>15</sup>
6. BCREA would respectfully request that the recommendations made through this coordinated effort be supported by the Commissioner in his report to government. The BCREA submits they are positive steps, responsive to issues raised in Inquiry evidence on real estate and money laundering, and they reflect broad industry consensus views.
7. The initiatives identified were not questioned or challenged in the Inquiry, and the BCREA submits they stand as consensus recommendations which BCREA would ask the Commissioner to endorse in his recommendations.

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<sup>15</sup> Exhibit 624, pages 2-3.

**C. Changes since the German Reports: Federal, Provincial, and Industry Response**

8. The BCREA submits that the Commissioner should be mindful of the fact that in recent years—particularly since the Terms of Reference Reports were drafted and the German Report Recommendations were issued—there has been significant activity on the part of the provincial government, the real estate regulatory bodies at both the federal and provincial levels, and industry response. A number of the German Report Recommendations have been implemented and their efficacy has not yet been assessed.

9. As a key example, the province has implemented, with support of the BCREA, the *Land Owner Transparency Act*. This is an important initiative which will serve to increase transparency in real estate ownership and assist in identifying money laundering activity. The impact of the new legislation cannot be measured at this time but the BCREA submits it is an important step, the efficacy of which should be permitted to be realized.

10. Further, the province has revised its regulatory regime for realtors by moving to a single regulator model.<sup>16</sup><sup>17</sup> The BCREA supported this change and submits it will improve regulatory oversight of the industry.<sup>18</sup> The elimination of duplication of efforts by multiple regulatory bodies is fully consistent with the BCREA's views discussed on "smart regulation". Further, the Commissioner heard of recently struck memorandums of understanding between regulatory bodies,<sup>19</sup> as well as increased efforts by regulatory bodies to coordinate activity and information sharing, subject to applicable privacy legislation and protections.<sup>20</sup>

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<sup>16</sup> See Transcript, February 16, 2021 at page 11, lines 19-24.

<sup>17</sup> Exhibit 603 at para 8 and Appendix Q.

<sup>18</sup> Exhibit 601 at Appendix 24.

<sup>19</sup> Exhibit 615.

<sup>20</sup> Transcript, February 17, 2021 at page 57, line 13 to page 58, line 4.

11. These fundamental changes in British Columbia, including the upcoming implementation of a beneficial interest registry, should be given an opportunity to have an impact on regulatory oversight of the industry, with a subsequent assessment of whether they contribute effectively to identification and prevention of money laundering. BCREA submits the Commissioner should exercise caution in advising government on making drastic modifications to industry regulation without allowing the significant recent changes to be effectively implemented and their efficacy assessed.

#### **D. FINTRAC and Suspicious Transaction Reporting**

12. FINTRAC and BCREA are improving and increasing communication to try and address concerns around the quality and quantity of suspicious transaction reports (“STRs”).<sup>21</sup> There is evidence of uncertainty and confusion on the part of realtors as to the efficacy of suspicious transaction reporting, as well as evidence of continuing and increased efforts to improve the understanding of the requirement and processes.<sup>22</sup> BCREA has engaged FINTRAC to participate in its educational activities and, as set out in Module 3 of the Mastering Compliance Course,<sup>23</sup> there is comprehensive course material and communication to members on the topic.

13. The BCREA would note that from the STRs filed in British Columbia, the BCREA is unaware of any investigation, let alone charge or conviction, in regard to any money laundering activity resulting from the filing of STRs or compliance reporting. Further, as evidenced by the testimony of RECBC, which processes thousands of complaints on an annual basis, there is virtually no evidence of widespread money laundering-related activity at the real estate licensee reporting level.

14. It is apparent from the number of complaints processed by RECBC that there is little reluctance to file complaints about real estate licensees where there is evidence or

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<sup>21</sup> Transcript, February 17, 2021 at page 117, lines 14-18.

<sup>22</sup> Exhibit 601 at paras 42-133.

<sup>23</sup> Exhibit 623C.

allegations of misconduct or regulatory breach.<sup>24</sup> The BCREA submits that if there was clear evidence of money laundering-related matters in the real estate industry, it would likely be demonstrated by widespread money laundering convictions, investigations, and reports against real estate licensees. Based on the evidence before the Inquiry, that does not appear to be the case; RECBC testified only one licensee has been sanctioned for money laundering-related matters.<sup>25</sup> The extent of money laundering in the both the province and within its real estate sector remains to be determined.

15. BCREA has consulted with FINTRAC on STR indicators.<sup>26,27</sup> These indicators are available to realtors online through FINTRAC, as described in the Mastering Compliance Course,<sup>28</sup> and as evidenced by FINTRAC in the Inquiry.<sup>29</sup>

16. BCREA is committed to increased use of communication tools with FINTRAC to both improve reporting of STRs and develop other ways to combat money laundering. BCREA recognizes the commonality of interest of the real estate industry and its regulators in identifying and eliminating any such activity from our industry and from society more generally.

17. The BCREA gave evidence of its concern with FINTRAC's communication with small businesses, which make up a significant number of real estate licensee offices in British Columbia. Ms. Hyde testified the median-sized brokerage in British Columbia is four licensees.<sup>30</sup> Ms. Hyde commented that, in her experience, they tend to "want very concrete, real language as opposed to bureaucratic language. They tend to want very

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<sup>24</sup> Transcript, February 17, 2021 at page 60, lines 23-24.

<sup>25</sup> Transcript, February 17, 2021 at page 17, line 11 to page 18, line 10.

<sup>26</sup> Exhibit 626.

<sup>27</sup> Transcript, February 17, 2021 at page 117, lines 14-18.

<sup>28</sup> Exhibit 623D at pages 10-12.

<sup>29</sup> Transcript, March 12, 2021, at page 62, lines 4-9.

<sup>30</sup> Transcript, February 17, 2021, page 126, lines 6-7.

clear direction as opposed to direction they have to interpret from time to time.”<sup>31</sup> Ms. Hyde went on to comment:

“They like fast, user friendly tools. And I think another suggestion I’d give FINTRAC is we were hard-pressed to come up with one case study for mastering compliance that showed where the results of the realtor making the suspicious transaction report turned into a situation where money laundering was frustrated.”<sup>32</sup>

18. In summary, it is apparent there have been deficiencies in terms of STR reporting training, which are being addressed in the real estate sector’s push for education as evidenced by Module 5 of the BCREA Mastering Compliance Course and the mandatory education required by RECBC. FINTRAC is also making clear effort to increase its education of, and communication with, realtors in British Columbia, which is acknowledged and appreciated by the BCREA. The Commissioner should encourage that continued effort and continued collaboration between industry and regulators more generally.

19. Commission counsel questioned the role of the managing broker as the compliance officer, and the BCREA’s position has been and remains that the managing broker needs to play the key role in ensuring compliance in a brokerage, consistent with other business sectors. Ms. Hyde stated:

“I will say that our efforts at bolstering and buttressing the managing broker is something that we take pretty seriously insofar as we want an industry that is driven by good policies, good practices, good risk management and that most businesses would not leave it up to salespeople to ensure that that’s in place. Most businesses would have a controller, a supervisor, a manager, which ensures that these things happen according to policies and procedures and who is looking out for the risk aspects of managing the business.”<sup>33</sup>

20. The BCREA is well aware of media reports of widespread money laundering in the real estate sector based on selective reporting of speculative and qualified research

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<sup>31</sup> Transcript, February 17, 2021, page 126, lines 8-12.

<sup>32</sup> Transcript, February 17, 2021, page 127, lines 7-14.

<sup>33</sup> Transcript, February 17, 2021, page 137, line 25 to page 138 line 12.

findings. The BCREA's efforts are not focussed on the quantum question, and fully accepts the expert consensus that the accurate quantification of money laundering—in real estate or otherwise—is not possible. Regardless of the quantification efforts, the issue is determining the appropriate regulatory response. From the BCREA's perspective, justifying the regulatory oversight or additional costs of compliance flies in the face of dealing with affordability of real estate; if the regulatory costs increase the costs of a real estate transaction, that burden will ultimately be picked up by the consumer.

21. In spite of media reports of unqualified speculative quantifications attempting to explain billions of dollars a year being laundered through real estate, the BCREA has not been made aware of widespread fines, prosecutions or other sanctions against realtors who have committed money laundering offences.<sup>34</sup> Despite this, in the absence of definitive evidence, the BCREA remains dedicated to the continued education of its members on the issues of money laundering.

22. Commission counsel asked the BCREA's Chief Economist if he had any views on the quantification of money laundering in real estate in BC.<sup>35</sup>

23. Mr. Ogmundson highlighted the common position of experts who testified in the proceeding that we do not have the data to make that assessment.<sup>36</sup> Professor Somerville, who was relied on in the Maloney Report for his expertise as co-author of the quantification evidence and evidence on affordability, did not support unqualified reliance on the quantification evidence of Professor Unger.<sup>37</sup> Professor Somerville highlighted the difficulty of measuring the unmeasurable. Mr. Ogmundson testified:

With money laundering, as the commission has heard from experts, we don't have that data. We certainly don't have good data, and even the methodologies used to estimate money laundering, I think, some have

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<sup>34</sup> Transcript, February 17, 2021, page 142, lines 16-22.

<sup>35</sup> Transcript, February 17, 2021, page 169, lines 19-21.

<sup>36</sup> Transcript, February 17, 2021, page 170, lines 9-14.

<sup>37</sup> Transcript, February 18, 2021, page 90, line 16 to page 91, line 9.

described as so uncertain as to be unhelpful to policy. So that is kind of the starting point. We come up. We have an estimate from the Maloney report, from their gravity model which is a really interesting exercise, but we have no way of knowing how accurate it is and so it's really uncertain, and again so uncertain as perhaps to be not a very useful guide. So that's our starting point for how to estimate the impact of money laundering on the housing market. We are starting with an estimate that has a very wide confidence interval. Now sort of moving to the impact on the housing market. If I were tasked with finding someone to make that calculation, I also would choose Professor Somerville because he is eminently qualified and extraordinarily honest, and that honesty comes through all over that report because just about every paragraph has a caveat about how many assumptions go into the estimate that they have made. So I think, you know, we start with a very uncertain estimate of the flows of money laundering, add about half a dozen more assumptions and we get to an estimate on the housing market which is -- you know, comes out at about 5 percent. I'd sort of go back as well to that intellectual honesty showed by Professor Somerville. I think a lot of that didn't get transferred, though, to, you know, some of the way that that number was presented in the public and in the media. It was sort of presented as if it was a finding, a forensic accounting sort of finding of \$5 billion in money laundering rather than the way it's actually presented as an estimate with a very wide kind of standard error. So, again, taking that number, another half a dozen or so assumptions, and we get to an estimate of about a 5 percent impact in the housing market. And, again, a number I think that's pretty widely misunderstood. That estimate comes from a pretty simple calculation in this sort of what would he call a static kind of calculation. That 5 percent means if we could eradicate money laundering completely, or at least the proceeds of money laundering completely from getting into the BC economy and the housing market, then the level of home prices would be 5 percent lower. So that's what that calculation means. For context, home prices in the Lower Mainland rose about 80 percent between 2010, 2020, so there's clearly -- even if you take the very high end of an estimate of 5 percent, there's clearly a lot more going on in the Lower Mainland housing market than money laundering.<sup>38</sup>

24. The BCREA would ask that the Commissioner give little if any credence to an estimate which, while enticing to media trying to attract audience, neglects to focus on the material qualifications made by the coauthors with respect to the estimates.

25. Mr. Ogmundson also provided additional context to the estimated consequential effects of money laundering on the affordability of housing in British Columbia. Housing

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<sup>38</sup> Transcript, February 17, 2021, page 170, line 9 to page 172, line 20.

prices in British Columbia have risen 80% between 2010 and 2020, and again materially in 2021 when the borders have been closed.<sup>39</sup> During the unique conditions of 2020 and 2021, the provincial real estate market has continued to experience surging demand driven largely by domestic forces given ongoing border restrictions. Even if the qualified estimates in the Maloney Report of a five percent impact on housing prices caused by \$5.7 billion in money laundering was accurate in both respects, the eradication of all of that money laundering would result in a 5% reduction against that 80% increase. While the Commissioner will find justification for targeting money laundering, it is hard to say affordability of housing prices could be identified as a persuasive rationale given the context of such significant growth due to other unrelated factors.

26. The BCREA would also question the quantification evidence in terms of the characterization of funds underlying the amount identified by Professor Unger. It is not clear whether the estimate of money laundering quantification includes funds which have entered the jurisdiction contrary to foreign currency restrictions and whether that amount impacted Professor Unger's assessments, or indeed whether those funds are considered laundered money. Foreign capital is not in and of itself illegal, nor is it inherently indicative of money laundering; the province and the federal government have long supported foreign investment in real estate in British Columbia and elsewhere as a driver of the economy.<sup>40</sup>

27. Going forward, the BCREA remains committed to working with government and regulatory bodies to respond to instances of money laundering and facilitate better collaboration and cooperation with industry. The BCREA is committed to a strong partnership and relationship with the British Columbia Financial Services Authority ("**BCFSA**") following the move to a single regulator, and would welcome any opportunities to join in furthering anti-money laundering initiatives to contribute to the eradication of any such practices in our industry.

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<sup>39</sup> Transcript, February 17, 2021, page 166, line 5 to page 167, line 2.

<sup>40</sup> Transcript, February 17, 2021, pages 180-186.

## PART 2

### BCREA RESPONSE TO SELECT ISSUES IDENTIFIED BY COMMISSION COUNSEL

28. The BCREA provides its responses to selected issues identified by Commission Counsel in response to directions provided by the Commissioner's Ruling 32 in the following submissions.

**29. What are the challenges in quantifying the extent of money laundering in British Columbia?**

As noted above, the BCREA submits that the challenges of quantifying the unquantifiable have been demonstrated in the proceeding, including expert references to the fact that efforts to accurately quantify money laundering are extremely difficult given the hidden nature of the activity.<sup>41</sup>

**30. If money laundering is inherently secretive and difficult to quantify, is it nonetheless worth attempting to quantify?**

BCREA sees little value in attempting to quantify money laundering as a responsibility of provincial policy development given the marginal quality of the evidence available. Poorly produced and unsupported speculation of money laundering quantification runs the risk of inappropriate allocation of public resources responding to potentially exaggerated or otherwise inaccurate claims.

**31. Of the currently available methods of measuring money laundering, such as the Walker/Unger gravity model, which, is preferable?**

Given the BCREA's concerns about the weakness of all models, no verifiable persuasive model was in the evidence at the Inquiry. There is no preferable model identified at this time.

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<sup>41</sup> Exhibit 330, page 46.

**32. Should estimates of the volume of money laundering be used to inform policy? If yes, how?**

Given the absence of accurate or verifiable estimates, the BCREA does not understand how this can be a valid tool to inform policy.

BCREA submits public resources are best focussed on fighting predicate crimes in British Columbia to reduce the level and quantum of economic activity and profit from such crime.

**33. Based on the available evidence what conclusions can be drawn about the extent to which criminal funds are laundered through the British Columbia economy?**

BCREA can only speak to the experience of its members through their respective awareness of money laundering in real estate transactions to which they have had exposure. The evidence in this Inquiry is there have been de minimis investigations, regulatory complaints, or criminal investigations or prosecutions of realtors or their clients in relation to money laundering in real estate transactions.

*Vulnerability to Money Laundering*

**34. Is the real estate sector in British Columbia vulnerable to money laundering?**

Yes. This was acknowledged by the BCREA witness.<sup>42</sup> From a BCREA perspective, the efforts to raise awareness and educate realtors around this vulnerability have improved the real estate sector's ability to identify the risks and vulnerabilities.

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<sup>42</sup> Transcript, February 17, 2021 at page 141, lines 11 to 14.

**35. What are the vulnerabilities to money laundering in the real estate sector?**

As testified to by Ms. Hyde, as a high-value asset, real estate is a target asset for investment of proceeds of crime.<sup>43</sup>

**36. What is the evidence that money laundering is or could be occurring through British Columbia real estate?**

There is evidence on the record in this proceeding that money laundering occurs through real estate around the world, which would tend to indicate that the sector at large is vulnerable to money laundering based on certain attractive characteristics of the asset class. There is also anecdotal and media evidence of money laundering in real estate in British Columbia. There is abundant suspicion around money laundering in real estate in British Columbia. There is, however, a dearth of prosecutions or regulatory actions—either successful or unsuccessful—that have proven money laundering in real estate proliferates in British Columbia, notwithstanding the allocation of material law enforcement and regulatory efforts. In the Maloney Report, there are speculative estimates of money laundering in real estate in British Columbia, the veracity of which is easily challenged.

*Money Laundering and Real Estate Values*

**37. Is there evidence that real estate prices are being affected by money laundering in British Columbia? If so, to what extent? Has there been a conflation of money laundering and foreign investment in public discourse around real estate values in British Columbia?**

Yes, the Maloney Report<sup>44</sup> can be characterized as evidence that real estate prices are being affected by money laundering. However, and as discussed in the BCREA's Part I submissions, the evidence is speculative

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<sup>43</sup> Transcript, February 17, 2021 at page 141, lines 11 to 14.

<sup>44</sup> Exhibit 330.

and qualified both with respect to quantifying total money laundering proceeds used in British Columbia real estate transactions and the consequential effects of same on real estate prices in the province. Quantifying the extent to which prices have been affected is difficult if not impossible, as it necessarily involves the use of a speculative figure pegged as the total amount of money laundering proceeds as the input in any modelling on the effects.

The BCREA submits there has been a conflation in the public discourse surrounding money laundering and foreign investment in real estate. It remains unclear in assessing money laundering whether the various assessments include the movement of foreign capital attempting to avoid foreign currency restrictions is captured in the definition of “money laundering”. At a higher level, there has been conflation of legitimate foreign capital—moved in compliance with foreign and domestic currency restrictions—still coloured as money laundering in public rhetoric. This rhetoric has even extended to the conflation of real estate owners with non-anglicized names as somehow indicative of potentially illegitimate foreign capital.<sup>45</sup>

**38. Has the discussion around money laundering and foreign investment in real estate given rise to issues of bias, in particular on the basis of race or national origin?**

This issue has received much attention in the media which, by definition, indicates it has given rise to the issue or, at a minimum, the perception of the issue existing.<sup>46</sup>

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<sup>45</sup> Exhibit 915.

<sup>46</sup> Exhibit 915.

Regulatory Framework

**39. Is the existing regulatory framework for actors in the real estate sector in British Columbia adequate to address vulnerabilities to money laundering?**

The recent changes to the regulatory structure of the real estate sector in British Columbia have not yet been given a chance to take effect to a level that this question can fairly be answered at this time. The new regulatory structure under the BCFSA does not take effect until late summer of this year. Through the Terms of Reference Reports and this Inquiry, the awareness of vulnerabilities and the measures to investigate and pursue addressing vulnerabilities is a work in progress for all involved.

**40. Do the regulators of actors in the real estate industry in BC, namely BCFSA, OSRE and the RECBC, have adequate resources and training to address issues of money laundering in the real estate sector?**

It is not possible to assert what “adequate resources and training to address issues of money laundering in the real estate sector” might look like. The evidence in this proceeding demonstrates a wide range of views. From a BCREA perspective, the BCREA has invested to educate its membership and will continue to work with and respond to regulatory issues of government in a constructive manner. BCREA view the critical issue with the implementation of the BCFSA not to be resource-specific, but rather focused on the development and adherence to an evidence-based practical regulatory framework that is not dictated upon the sector, but developed in close collaboration with it. BCREA identify a common historical regulatory hindrance has been unaccountable regulatory models designed without the expertise of the sector itself, which has resulted in significant regulatory shortcomings. Success of the new regulatory structure will be highly dependent on a practical and accountable regulatory model co-developed by the sector, consistent with BCREA’s prior views on “smart regulation”.

**41. If not, what further resources and training are required to address issues of money laundering in the real estate sector?**

The BCREA submits that the courses it has designed, implemented, and continues to refine—in addition to the mandatory education of RECBC—are in their early stages and it is not clear what additional training or resources are required at this time.

**42. Would giving the regulator(s) an express AML mandate assist in terms of allowing them to focus existing resources on measures that would combat money laundering in the real estate sector? If so, what shape should that mandate take?**

An express AML mandate could improve the eradication of money laundering, but this question is best answered by the regulators. BCREA encourages the sharing of information amongst regulators consistent with relevant privacy law restrictions, on the assumption this may increase efficiency and avoid duplication which may be beneficial in the advancement of smart regulation.

**43. Do the regulators of actors in the real estate industry have adequate access to information that would allow them to proactively detect and address potential money laundering through real estate?**

BCREA submits this question is best answered by the regulators.

**44. What further access to information would be required to allow these entities to proactively detect and address potential money laundering through real estate?**

BCREA submits this question is best answered by the regulators.

Industry Groups

**45. Are industry groups, such as the BCREA, REBA and the CMBA-BC, adequately informed with respect to their respective sectors' vulnerability to money laundering, and able to provide education and guidance to their members with respect to money laundering matters?**

Significant progress has been made by the BCREA in implementing education and training for realtors as described in the testimony of BCREA.<sup>47</sup> The materials prepared for the Mastering Compliance Course<sup>48</sup> and RECBC's mandatory education for realtors highlight the ability of industry, in consultation with regulators, to provide education and guidance on money laundering matters.

Real Estate Licensees and Mortgage Brokers

**46. Should real estate licensees be required to conduct and record due diligence in respect of referrals made to mortgage brokers?**

BCREA has no specific views on this issue at this time. Currently, RECBC provides licensees with guidelines for making referrals.

FINTRAC Relationships with Industry

**47. Does FINTRAC provide adequate outreach and education to real estate professionals in British Columbia with respect to their reporting obligations?**

BCREA submits that outreach and education from FINTRAC can be improved. Based on the evidence in this proceeding, it is evident that FINTRAC is working towards making those improvements and the BCREA appreciates those efforts.

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<sup>47</sup> Transcript, February 17, 2021 at page 109, line 4 to page 110, line 9.

<sup>48</sup> Exhibit 623.

**48. Do real estate professionals in British Columbia adequately appreciate their role in the AML regime?**

As reflected in the above submissions, the BCREA is working to improve the BCREA's members' appreciation of their role in the regime, and there has already been tangible improvements in this regard.

**49. How can BC real estate regulators and industry associations better coordinate with FINTRAC to conduct effective outreach to and support of real estate professionals?**

As testified by the BCREA, we have reached out to FINTRAC to involve them in our education initiatives and will continue to provide more and better opportunities to communicate with FINTRAC.<sup>49</sup>

**50. What further steps could BC real estate industry associations take to ensure their members are adequately informed with respect to their anti-money laundering obligations?**

The BCREA has been making material steps to ensure their members are adequately informed, as testified to by the BCREA witness panel.<sup>50</sup>

*Privacy Interests*

**51. What privacy concerns or issues arise as to the collection, sharing and use of that data as between government regulators and agencies, or as between government regulators or agencies and private entities?**

BCREA are on record as wanting smart policies that are effective and avoid duplication. In terms of specific privacy concerns, these are structural questions best addressed by the regulators.

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<sup>49</sup> Transcript, February 17, 2021 at page 117, lines 14-18.

<sup>50</sup> Transcript, February 17, 2021 at page 83, line 22 to page 85, line 22.

**52. How can these interests be taken into account in any measures taken to address money laundering in the real estate sector?**

A strong regulatory environment will be evidence-based, and grounded around detailed knowledge of the sector under regulation. To this end, close collaboration with the sector is required before any changes are made.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**



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