

COMMISSION OF INQUIRY
INTO MONEY LAUNDERING IN BRITISH COLUMBIA

Reply Submission

Of The Society of Notaries Public of British Columbia (“the Society”)

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We wish to acknowledge the detailed and thoughtful closing submissions that the participants in the Inquiry have made. The range of views expressed appropriately reflects the differing views of governments, government agencies, and various civil society organizations.

1. As the Commission considers the submissions and formulates its findings and recommendations regarding real estate matters, we recommend that weight be given to recommendations and submissions that propose:
 - a. the inclusion and use of domain experts. Much work has been done by committees and groups with seemingly little hands-on knowledge of how real estate transactions and our Torrens land title system work in British Columbia. It is not difficult to "...search and therefore utilize..."¹ the land title registry, especially if you are a government agency with an exemption from fees. Regulatory and investigative agencies should be exempt from search fees.
 - b. the specific inclusion of the relevant professional regulators such as the Society of Notaries Public of B.C. and the Law Society of British Columbia as domain experts.
 - c. the involvement of key personnel from the agencies responsible for our land title, tax systems and corporate registries.
 - d. the direct and transparent acquisition of timely information for clearly specified and legally authorized uses.
2. We support the many calls for increased coordination and appropriate data collection and sharing². Regulators cannot be effective without specific information.
3. The Society is subject to the Freedom of Information and Protection of Privacy Act, RSBC 1996, c 165. We are an agency charged with law enforcement (the *Notaries Act*) and can be safely and legally included in all matters that touch on the role of Notaries Public in real estate transactions.

¹ Page 10 Paragraph 30, Closing Submission of HMTQ in Right of BC

² Page 49 Paragraph 150, Closing Submission of HMTQ in Right of BC

4. Federal institutions, understandably, do not seem to be aware of the prominent role of Notaries Public in B.C.'s real estate system. Since the very first entry into B.C.'s Torrens system, our members have been doing these transactions reliably and safely, often representing one party to a transaction while a lawyer represents the other.
5. Constitutionally, property and civil rights are within the jurisdiction of the provinces. We note that that jurisdiction includes the applicability of B.C. laws to federally regulated institutions such as national banks and federal corporations. See, for example, *Canadian Western Bank v. Alberta*, [2007] 2 SCR 3, *Bank of Montreal v. Marcotte*, [2014] 2 SCR 725 and *Li v. British Columbia*, 2021 BCCA 256.
6. We recommend that the Commission consider the discussion of constitutional matters in the definitive Canadian text on inquiries, "The Conduct of Public Inquiries: Law, Policy and Practice" by Ed Ratushny (Irwin Law Inc. 2009)
7. We confirm our support for FINTRAC and CIFA-BC as discussed in the various submissions. The integration of multiple agencies into the B.C. Financial Services Authority is a progressive step, and we look forward to working closely with them.
8. Various timely and valuable suggestions have been made for the improved collection of tax information and the identification of parties.³ Al Capone is quoted as saying, on the conviction of his brother Ralph for tax evasion, "I don't understand this at all." Apparently, "it was incomprehensible to him that after a decade of plundering and murdering with impunity (that) such a penalty could be incurred for merely withholding money owing the government."⁴
9. The development of databases and search tools for use by appropriate agencies is very encouraging. For example, the "Director Search" application⁵ would be very useful to SNPBC in a current investigation of real estate transactions

³ P. 22 Para. 72 Closing Submission of HMTQ in Right of BC

⁴ P. 274, Capone by John Kobler 1971 Da Capo Press

⁵ P. 26 Para. 86 Closing Submission of HMTQ in Right of BC

involving a number of newly created companies. Currently, the SNPBC does not have the authority to use this tool.

10. Without such a search capability, it is essentially impossible to “connect the dots.”
11. HMTQ In Right of B.C.⁶ notes that Jeffery Simser, in his evidence, ‘emphasized “the right relationship with financial institutions, the right relationship with the [Financial Intelligence Unit (FIU)], with FINTRAC, and with law enforcement so that the right information was coming in.”’
12. We agree and acknowledge the complex challenge facing the Commission when considering recommendations. That said, we are confident that a way can be found to collect the right information, at the right time, from the right people. Further, that the information can be made available to the right agencies with the right resources further to constitutionally compliant laws and policies. Our members stand ready to play their part in the reliable and timely collection and verification of this foundational “right information.”
13. We reaffirm our closing submission of July 9, 2021

All of which is respectively submitted

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⁶ P. 49 Para. 150 Closing Submission of HMTQ in Right of BC