

Commission of Inquiry into Money Laundering in British Columbia Opening Statement - February 26, 2020

‘End Snow Washing’ Coalition

- **Canadians for Tax Fairness**
- **Publish What You Pay Canada**
- **Transparency International Canada**

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Table of Contents

Section 1: Introduction	3
Section 2: About the Coalition	3
Section 3: Canada’s Snow Washing Problem	4
Section 4: How anonymous shell companies impact Canada’s economy	6
Organized Crime and Corruption	6
Housing	7
Tax avoidance and tax evasion	7
Section 5: What is being done: Canada moves towards beneficial ownership transparency	8
Section 6: How Canada can create an effective publicly accessible registry	9
Ownership Threshold Disclosure	9
Fields of information to be collected	9
Enforcement and Penalties	10
Validation of information and technical solutions	10
Balancing beneficial ownership transparency and individual privacy	11
Low Regulatory Burden for Business	12
Section 7: The importance of a public registry	12
Section 8: Conclusion	13

Section 1: Introduction

1. The ‘End Snow Washing’ Coalition (the Coalition) made up of Canadians for Tax Fairness, Publish What You Pay Canada, and Transparency International Canada, would like to thank the Commission of Inquiry into Money Laundering in British Columbia (the Commission). The Coalition is dedicated to reducing money laundering across Canada.
2. The Coalition applauds the British Columbia Government on setting up the Commission to establish accountability into causes of money laundering in British Columbia, as well as hear and recommend methods that the BC government can use to continue to address money laundering.
3. The Coalition is pleased to not only provide testimony, but also identify experts that the Commission may reach out to at its own discretion for further advice on anti-money laundering initiatives.
4. In our opening statement, I will review who makes up the Coalition, a review of money laundering – or ‘snow washing’ – in Canada, the damage caused to Canada by the abuse of anonymous companies, what Canada has been doing to address the problem of anonymous companies, and what our Coalition recommends should be done, namely the establishment of a publicly accessible registry of corporate beneficial ownership.

Section 2: About the Coalition

5. Coalition came together in 2016 recognising a need for Canada to address opacity of beneficial owners of companies – the aim was focused on creating a public registry of beneficial owners in line with increasing precedents being set internationally including the UK public registry that was announced in 2016. The Coalition’s work has been funded by the Open Society Foundation since 2017. The informal name of the Coalition, the ‘End Snow Washing’ Coalition, derives from a phrase to describe money laundering in Canada, uncovered by journalists reviewing the Panama Papers leak, which will be described further on.
6. I will provide a brief summary of each organization in the Coalition.
7. Canadians for Tax Fairness is a non-profit organization whose aim is to raise public awareness of crucial issues of tax justice and to change the way Canadians talk about tax. It advocates for fair and progressive government policies aimed at building a strong and sustainable economy, reducing inequalities and funding quality public services.

8. Publish What You Pay Canada is part of the global Publish What You Pay movement of civil society organisations working to make oil, gas and mineral governance open, accountable, sustainable, equitable and responsive to all people. As a movement, it envisions a world where all people benefit from their natural resources, today and tomorrow. Launched in 2008, PWYP-Canada today numbers 15 members and realizes its work through advocacy, research and public outreach to promote and achieve enhanced disclosure of information about extractive industry operations, with an emphasis on revenues and beneficial owner information.

9. Transparency International Canada (TI Canada) is the Canadian chapter of Transparency International. Since its foundation in 1996, TI Canada has been at the forefront of the national anti-corruption agenda. In addition to advocating legal and policy reform on issues such as whistleblower protection, public procurement and corporate disclosure, it designs practical tools for Canadian businesses and institutions looking to manage corruption risks, and serve as an anti-corruption resource for organizations across Canada.

10. The Coalition also relies on a working group of experts to whom we are grateful for their hours of volunteer work providing insights.

Section 3: Canada's Snow Washing Problem

11. Canada has made international headlines as an attractive money laundering destination for kleptocrats, criminals, and tax dodgers. Experts estimate \$47 billion to \$130 billion in illicit funds are funneled through the economy every year. At the high end, that's over 5% of Canada's 2019 GDP. The trend of cleaning dirty money in Canada has grown so widespread, there is even a name for it, "snow washing."

12. It is no wonder criminals set their sights on Canada, which has some of the weakest corporate transparency laws in the world. There are more rigorous checks to obtain a library card than to set up a shell company. Criminals and their intermediaries know this, and the evidence was unearthed by Toronto Star and CBC journalists digging into the 2016 leak of Panamanian law firm Mossack-Fonseca. In the Panama Paper leaks, the journalists discovered that Canada was being marketed as a location to bring your dirty money and have it cleaned like the pure white snow. Hence, snow washing.

13. As an example, Mossack-Fonseca, used a Quebec numbered company to facilitate a complex transnational tax scheme for a Peruvian mining firm. Internal communications from the law firm revealed how Canada's lack of beneficial ownership transparency made it an appealing place to do business: "[i]t is impossible for the Canada revenue governmental system to look into such information for every single company," they wrote.

14. Snow washing is not the only notorious term tied to Canada's money laundering problem. As the residents of British Columbia know all too well, and indeed what is the basis for this Commission, there is also the term 'the Vancouver Model', as reported by then Vancouver Sun journalist, Sam Cooper. The term was coined by intelligence agencies based in our international partner governments to describe illicit flow of funds connecting gambling in China and Vancouver, and in turn linking that to underground banks, housing, and domestic crime in British Columbia.

15. Canada recently fell four points to 12th place in Transparency International's global Corruption Perceptions Index, landing behind peers such as Germany and Norway. The annual index pointed to Canada's snow washing problem as one of the reasons for the downgrade.

16. There are a number of gaps within Canada's anti-money laundering law, the Proceeds of Crime (Money Laundering) and Terrorist Financing (PCMLTFA), but our Coalition, as well as many experts and international bodies agree on a key problem; Canada's weak beneficial ownership regime. Not everyone who owns a secret company is a criminal. Thousands of legitimate shell companies operate in the country. But gaps in Canada's laws allow the true owners of companies to remain anonymous, giving criminals entry to our economy and communities, where they do significant harm.

17. The Coalition recommends greater transparency of the true owners of companies, known as beneficial owners. Making ownership information public can deter criminals from using anonymous companies to hide dirty money.

18. Federal, provincial, and territorial governments already have business registries, which are updated daily as companies are created, dissolved, amalgamated or undergo ownership, address and other information changes.

19. Beneficial ownership transparency would add information about the true owners of companies to existing business registries. While not all details are public, enough information is available to deter those who want to snow-wash money through a Canadian company.

20. Since the explosive 2016 Panama Papers leaks, the federal government has vowed to crack down on massive offshore tax avoidance and evasion, but Canada cannot tackle sophisticated global networks without strengthening secrecy laws at home. Until it lifts the veil on anonymous ownership, shell companies will be used for financial crimes, costing both federal, provincial, and territorial governments billions in lost revenues.

Section 4: How anonymous shell companies impact Canada's economy

21. Money laundering, and particularly beneficial ownership transparency can at times seem like an abstract issue for many Canadians, predominantly on how they are affected. But from facilitating crime, to housing affordability, and business due diligence, Canada's snow washing problem affects Canadians across many sectors and individuals.

Organized Crime and Corruption

22. Money laundering facilitates organized crime, drug and sex trafficking, and the fentanyl crisis. Major cases of international tax evasion have been linked to anonymous entities in Canada, including the largest tax fraud operation in Russian history. For one example, between 2008 and 2013, Russian crime syndicates sprinkled illicit proceeds using entities they incorporated across Canada, from Ontario and New Brunswick to Alberta and B.C.

23. Negative consequences are also felt far beyond our borders. Shell companies are used by criminals and corrupt officials across the world, from violent dictators and drug lords to terrorists. A World Bank study found 70% of large corruption cases involved hidden ownership and the misuse of shell companies.

24. Given the scale of the social turmoil that money laundering and anonymous corporate ownership cause, the RCMP's success rate for convicting money laundering is a fraction of what it is for other crimes. In 80% of cases, a suspect cannot be identified and only a third of the cases that do go to trial result in conviction.

25. Investigators are frustrated by the inability to identify the owner of a company used to hide criminal activity. Law enforcement must request the information, which delays investigations and risks tipping off criminals. A public beneficial ownership registry can help authorities identify culprits of financial crimes discreetly.

Housing

26. Canadian cities are appealing to criminals. The amount of money laundering in BC real estate hit \$5.3 billion in 2018, almost 5% of the province's real estate transactions, according to estimates by the B.C. government-appointed expert panel on money laundering.

27. Transparency International Canada's 2016 report, *No Reason to Hide*, found nearly half of Vancouver's most valuable properties were hidden behind shell companies, trusts and nominee owners.

28. Vancouver isn't alone. TI Canada's joint 2019 follow-up report with Canadians for Tax Fairness and PWYP-Canada, *OPACITY: Why Criminals Love Canadian Real Estate (And How to Fix It)*, examined more than 1.4 million property transactions in the Greater Toronto Area, where prices have skyrocketed. Companies were three times more likely than individuals to buy real estate without a mortgage. At least \$20 billion entered the GTA housing market in the past decade without oversight or due diligence on beneficial owners.

29. Montreal also made headlines in 2017 after investigative reporters discovered nearly \$30 million in property was bought by government officials and politically exposed persons from several West African countries with endemic corruption.

Tax avoidance and tax evasion

30. Governments lose billions to tax evasion and avoidance every year. Experts estimate as much as 10% of global GDP is stashed in offshore wealth. The situation is worse in developing regions like the Middle East and Latin America, where more than half of all private wealth flows offshore.

31. Scandals such as the Panama Papers have offered a glimpse into Canada's role in international tax dodging. Close to 900 Canadians were named in the 2016 Panama Papers leaks and 3,000 in the 2017 Paradise Papers but Canada has also been contributing to the global problem with its weak transparency rules.

32. Researchers found "a large fraction" of offshore wealth is traced back to shell companies, trusts, foundations, and personal holding companies incorporated in other tax havens. Without a public registry of beneficial owners, Canada acts as a haven to anyone wanting to avoid detection for tax reasons.

33. As billions escape into an underground economy, the tax burden shifts to honest Canadians and businesses. Canada's total tax gap – how much is owed in taxes versus how much the government collects – could be as high as \$47 billion a year, according to a 2017 report from the Conference Board of Canada. In 2019, the CRA estimated the corporate tax gap to be between \$9.4 billion to \$11.4 billion.

Section 5: What is being done: Canada moves towards beneficial ownership transparency

34. For years, advocacy groups and anti-money laundering experts have urged the federal government to improve beneficial ownership transparency.

35. In June 2019, federal, provincial and territorial finance ministers agreed to explore solutions to financial crime, including looking at a public registry of company beneficial owners. We are pleased to see that the federal government is currently conducting consultations on a public registry of beneficial ownership. This consultation comes on the heels of a consultation in Quebec and at the same time as a consultation in B.C on this issue.

36. In fact, B.C. has led Canada on beneficial ownership transparency with the passage of the Land Owner Transparency Act, which requires companies, trusts and partnerships to disclose beneficial owners.

37. This should put the federal government and other provinces and territories on alert. Just as more countries implement public registries and more of the world's dirty money flows to Canada, the same will likely happen among provinces and territories.

38. A 2020 *Global News* investigation found that since B.C. increased anti-money laundering efforts in the province, crime groups have shifted their focus to Ontario. And, jurisdictions that fail to act will be vulnerable.

39. In other countries governments are realizing a public registry can help expose the agents behind illegitimate operations and prevent them from setting up shop in the first place.

40. Countries like the United Kingdom, Denmark, Ireland, and Ukraine have already introduced public registries. All EU member states have agreed to implement public registries by January 2020. The UK plans to do the same with its overseas territories by 2023. Even known tax havens such as the Cayman Islands committed to a public registry under the UK's rules. At the time of publication,

almost 50 countries, including the EU, have implemented or plan to roll out beneficial ownership registries, a majority of which are public.

41. Global standards are moving toward greater beneficial owner transparency as well. The Extractive Industries Transparency Initiative (EITI), a global standard for good governance of the oil, gas and mining industry, required 52 member countries to disclose beneficial owners for mining and oil and gas projects by 2020. EITI will publish the information, enabling law enforcement, civil society and others to scrutinize the data.

42. At least 20 countries under the Open Government Partnership (OGP) committed to advance global norms on beneficial ownership transparency as of July 2019, including Canada.

43. Canada can learn from its peers that have taken a proactive role in enhancing corporate secrecy and accountability.

Section 6: How Canada can create an effective publicly accessible registry

44. There are critical components to get right for a public beneficial ownership registry to achieve its intended impact. These include the threshold for ownership disclosure, data fields to be collected, enforcement and penalties, validation of information, and balancing disclosure and privacy.

Ownership Threshold Disclosure

45. The higher the threshold on beneficial ownership control disclosure, the easier it is for criminals to hide. The UK's public registry has a 25% or more control threshold, but stakeholders have recommended lowering it to 10%. NGOs recommend lowering it even further as criminals wishing to stay anonymous can restructure the distribution of shares to evade threshold requirements.

46. The B.C. government has set an example for Canada by setting the LOTA threshold for a significant number of shares at 10%.

Fields of information to be collected

47. In line with global standards, we believe that businesses should disclose the following information:

48. Describing the beneficial owner relationship: information on the nature and extent of beneficial interest, politically exposed person status and/or Head of International Organization Standard;

49. Identifying the beneficial owner: unique identifier (generated by the registry itself), full legal name, month and year of birth, service or correspondence address, country of usual residence.

Enforcement and Penalties

50. Businesses must report changes such as sale of shares or ownership. Failure to disclose information should be subject to a financial penalty big enough to deter criminals. Launderers of large amounts of money will see smaller penalties as simply the cost of doing business.

51. An effective registry also requires a central office that is staffed with a mandate. Registrars with expertise in corporate law would be skilled at detecting risks and determining when additional verification or investigation is required.

Validation of information and technical solutions

52. Beneficial owners should be verified just as individuals are required to do so to drive a car or open a bank account. Examples of ID include passports, driver's licenses, or provincial identification cards with photo.

53. Proof of identity should be accessible to law enforcement or regulatory bodies but restricted from the public. Additional requirements could include a sworn statement or attestation of ownership.

54. Third-party verification systems, such as digital IDs, have the potential to make processing beneficial ownership information easier across jurisdictions. Several banks and financial institutions have adopted emerging technologies such as Verified.Me, which allow individuals to securely confirm their identities online.

55. All major Canadian banks are looking to a digital framework. The Canadian Bankers Association has called for a federal digital ID system to reduce fraud and improve compliance while reducing background checks and costs.

56. One option is a registry that allows provinces and territories to collect beneficial ownership data and provide it to a centralized database. Aligning the information that is collected in each

province and territory and sharing it in a central database would ensure harmonization of system, creating a level playing field for all businesses in Canada in this issue, and ease investigations across jurisdictions. This process should follow the international Beneficial Ownership Data Standard, which can be modified as data requirements change.

Balancing beneficial ownership transparency and individual privacy

57. It is important to distinguish between secrecy and privacy. Secrecy is the act of concealing something. Privacy is an individual right. As anti-corruption advocates have pointed out, there is no justification for corporate secrecy.

58. Registries should be designed to protect privacy. The UK registry contains beneficial owner details such as full date of birth, but only the month and year are publicly disclosed. The owner's service address is publicly available, but their residential address is not.

59. Canada should apply restrictions to safeguard privacy. Information such as country of origin could attract racial profiling and such fields should be restricted to the public.

60. In very rare cases, involvement in a business or associated wealth could make individuals targets for kidnapping or extortion. However, in Canada, many large profitable corporations are publicly traded and owners with 10% or more of voting shares are listed via the System for Electronic Disclosure by Insiders. Information about wealth is already public.

61. The UK uses a rigorous process for exempting information and offers no blanket exemptions for any group of people. Of more than one million companies that provided beneficial ownership information, only 270 applied to have their information withheld on the basis it would put them at risk, and only 5 of those requests were granted. In exceptional cases, the owner's information is still available to authorities. Other details are protected. Canada could consider a similar approach where on a case-by-case basis legitimate concerns of risks to disclosing this information are reviewed and considered.

62. Canada has a process in place to mitigate risks. Any time a federal program is created or changed, a privacy risk-assessment exercise is carried out. Assessments are reviewed by the Privacy Commissioner of Canada, which may advise additional measures to protect privacy. We would note that at a 2019 Transparency International Canada event, Ontario Privacy and Access to Information Commissioner, Brian Beamish, expressed his view that he did not expect a public beneficial ownership registry to create privacy concerns.

63. Minimal privacy risks would ultimately be eclipsed by broader societal gains of enhanced transparency and crime prevention.

Low Regulatory Burden for Business

64. Since the UK launched its public registry in 2016, a majority (64%) of businesses have found the publicly available information useful. Close to a third considered the information “very useful.”

65. The minor cost to businesses to implement and maintain a registry would be eclipsed by greater compliance savings, especially among smaller companies with limited resources. The median overall cost of compliance in the UK was relatively small, at just £125 (about \$240 Canadian).

66. Businesses were also asked if collecting and submitting information had affected how their business operates. The majority (95%) said it had no impact at all. In fact, some said the registry’s increase in corporate transparency was economically advantageous as it would likely result in improved business confidence and lead to greater investment.

67. Compliance costs are also borne by financial institutions that devote vast resources to activities the government could perform with a registry. A public and centralized registry would bring significant efficiencies across multiple sectors of the economy.

Section 7: The importance of a public registry

68. Registries should be available to everyone from tax officials and financial institutions to journalists conducting investigations and Canadian businesses doing due diligence checks. Public scrutiny can reduce errors and improve data.

69. A public database of beneficial owners can cut off illicit flows before they reach our borders and create greater global stability. For example, a study by the advocacy group Global Witness found a significant decrease in the UK of a type of corporate arrangement commonly associated with money laundering known as Scottish Limited Partnerships (SLPs).

70. SLPs do not have to identify associated partners and have been indicated in financial scandals such as fraud or arms dealing. The incorporation of SLPs declined by 80% from their peak in 2015, before the UK implemented a public registry.

71. The UK registry helped the public find incorrect information. There were 58,352 reports from the public regarding likely mistakes and discrepancies in the company register between July 2017 and March 2018.

72. As another example of the benefits of a public registry, foreign tax and legal authorities could analyze data to detect inconsistencies across regions, enhancing government collaboration. The UK registry was cross-checked with other regions' public datasets, where discrepancies were found between asset declarations of Ukrainian politicians and officials and the beneficial owners listed in the PSC register.

Section 8: Conclusion

73. When it comes to beneficial ownership, what you do not know *can* hurt you. Governments have learned this lesson the hard way, losing billions to money laundering and tax avoidance schemes. Crimes using shell companies leave little in the way of a paper trail, frustrating law enforcement and tax authorities who are already under resourced.

74. The extent of secrecy granted to companies has come at a high cost to Canadians, particularly in British Columbia. Bad actors have exploited Canada's stable economy, leading to crime, housing unaffordability and increased corruption.

75. The Canadian government has acknowledged the problem and agreed to look at all options to fix it, including a public registry of beneficial ownership. This is a positive step, but it does not go far enough for a G7 country that has fallen behind its peers. Forty-five jurisdictions have already made significant progress implementing a public registry. It is time for Canada to join the global movement towards beneficial ownership transparency.

76. We look forward to staying engaged with the Commission's important work and we hope that the citizens of British Columbia are served well by the Commission's findings and recommendations, and that the Canadian Government and other provinces follow the Commission's work closely.

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