

## Victoria Public Forum Summaries

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Date: November 4, 2019  
Time: 5:30 p.m. – 7:00 p.m. (approximately)  
Venue: Marriott Hotel Victoria  
Presentations: 6

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#### 1. Introductory Remarks – Commissioner Austin Cullen

The Commissioner welcomed the attendees and spoke to the purpose of convening a public forum. He noted his hope that public input might assist the Commission in fulfilling its terms of reference. He emphasized that an essential part of the Commission’s role is to enlighten British Columbians as to the nature and scope of money laundering, bringing attention to the role it plays within British Columbia and its attendant social and economic harms.

He made note of the limitations on the Commission’s mandate set out in the Terms of Reference and the Act and that speakers were registered to speak on issues raised in the Terms of Reference.

The Commissioner noted that the Commission is currently at the stage of reviewing studies and news reports, conducting interviews and making document requests, all of which will lead to and inform evidentiary hearings planned to take place in 2020.

#### 2. A.A. and S.K.

These speakers primarily addressed two issues: the regulation of lawyers and unexplained wealth orders (“UWO”).

The speakers noted the insidious nature of money laundering (“ML”) and its capacity to destroy economies and democracies.

They referred to a 2017 article published in Canadian Lawyer entitled “Tracking Dirty Money” that made note of the high proportion of ML cases that involved white collar professionals. They submit that in Canada, lawyers are the biggest problem. Worldwide, they submit that lawyers have demonstrated an inability to police themselves. Canadian lawyers are no different. They noted low reporting rates of suspicious transactions by lawyers in the UK. While their view is that BC lawyers adopted a no cash rule in 2014, they say physical cash is not the only problem with e-currencies emerging. Law Societies have loop holes, they say, that can be exploited. They made reference to the *Federation of Law Societies* case at the

Supreme Court of Canada and urged that this ruling should not deter Canadians from balancing lawyer-client privilege with deterrence and prosecution of ML.

Next they addressed UWO's, noting that these are used in Australia and Ireland effectively. There is nothing wrong with interrogating how individuals can afford assets that appear to exceed their means, in their submission.

They have offered recommendations to improve the situation which are that: (a) lawyers should not regulate themselves and instead government or an independent body should step in; (b) questions should be asked in respect of each property transaction to standardize the information collected and increase transparency (c) the Commission should consider UWOs which have been effective elsewhere.

### **3. K.M.**

The primary issue addressed by K.M. was the difficulty of enforcement in ML regimes.

He outlined some of the international articles that apply to ML submitting that Canada complies with COECD article 7 and 8 and UNCAC article 14, 23 which set out standards and principles of combatting ML.

Still, he submitted, Canada faces hurdles in enforcement and specifically in respect of investigation and asset recovery. He referred to a report published in 2011 by Transparency International entitled "No Reason to Hide: Unmasking the Anonymous Owners of Canadian Companies and Trusts". That report outlines the low prevalence with which police locate a suspect in ML cases. Even if there is a suspect, there are difficulties with prosecution.

He noted that FATF tracked ML charges from 2010-2014 and found low conviction rates, and a high proportion of charges withdrawn. He submitted that of those prosecuted in Canada, a high proportion got less than two years of jail time. Although the Commission does not have the mandate to inquire into prosecutorial discretion, he submitted that comparing these statistics with the US demonstrates that these statistics raise a concern about enforcement of ML in Canada.

He submitted that neither the RCMP nor prosecution were equipped to address the specific issues present in ML. He referred to the Hong Kong Independent Commission Against Corruption that sets standards for countries to develop units to develop AML regimes. Similarly, Quebec adopted a unit in 2011 with a mandate to promote investigations and prosecutions. As a result of this unit, Quebec leads the country in asset recovery, in his submission.

### **4. R.C.**

R.C. read from a detailed written submission that he delivered to the Commission.

He detailed his career in public service as parliamentary secretary to the Minister of Finance (1996-2008). During that period he was actively involved in designing and implementing Canada's AML regime. He was later parliamentary secretary to the Minister of Public Safety and in that role interacted with the RCMP on a variety of matters including proceeds of crime issues.

He submitted that since 2002 he has been active with the Global Organization of Parliamentarians Against Corruption ("GOPAC") in the international fight against corruption and ML including chairing GOPAC's AML Task Force.

R.C. discussed the FATF and its assessment of Canada's AML framework a report that he submits was positive but critical in certain aspects. These critiques could lead to another evaluation sooner rather than later. He submitted that exempting lawyers from reporting is a key gap.

R.C. submitted that he was involved in shepherding through Parliament the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* that resulted in the creation of FINTRAC. He says FINTRAC is respected internationally and submits that FINTRAC should not be repositioned to reside within a law enforcement agency, it should stay within the purview of the Ministry of Finance.

R.C. submitted that the sanctions that apply for failing to report suspicious transactions are not significant enough to act as an effective deterrent for non-compliance. As well he submits that FINTRAC does not do an effective job of auditing reporting entities to ensure suspicious transactions are being reported as required. FINTRAC needs more resources or it needs to manage its resources better. FINTRAC's legislated authority and mandate in this area may need strengthening.

R.C. submitted that it was regrettable that the Proceeds of Crime unit in Vancouver E Division of the RCMP no longer exists. He submitted that in recent times substantial ML leads prepared by FINTRAC and submitted to the RCMP were not acted upon by the RCMP. This unit needs to be re-established and re-invigorated and will need either new resources or a re-prioritization of existing budgets.

Finally, he submitted that beneficial ownership transparency and accountability should extend beyond the creation of a registry and require due diligence by the relevant authority. If disclosures are determined to be false, he submits there should be severe sanctions like asset freezing and confiscation.

#### **5. D.P.**

D.P. asked the Commission to consider domestic ML because of concern about how her parents made money and their subsequent treatment in care.

#### **6. M.N.**

M.N. traced the ML problem to the 1980s when criminals in the drug business would clean money by buying lottery tickets. He submitted that you can get 50% back through winnings this way. He faulted both the NDP of the 1990s and the Liberals of the 2000s for pushing the expansion of gambling in the province in the face of civil opposition.

M.N. submitted that the Commission should make clear the role of the government in ignoring the problem which was made clear in media articles from 2000 to the present day.

M.N. also advocated for the need to protect whistleblowers like Messrs. Pinnock and Alderson.

M.N. submitted that the proliferation of ML in BC was not a mistake as Dr. German found. He submitted the German Reports should be looked at with suspicion because of Dr. German's alleged conflict of interest as the former Deputy Commissioner of the RCMP.

As well, he asks that the role of BCLC and its Board members be considered as they ignored what was going on.

**7. B.A.**

B.A. addressed the Commission on the issue of how ML affects ordinary Victorians. In her submission, ML has affected affordability on Vancouver Island. She is angry that ML in Vancouver has not be sufficiently addressed and people are now moving illicit wealth to Vancouver Island. She says she is aware of businesses and joint ventures who are set up to launder money.