

Commission of Inquiry into Money Laundering in British Columbia

Application for Standing – Ruling #7

Ruling of the Honourable Austin Cullen, Commissioner, Issued March 25, 2020

A. BACKGROUND

1. This ruling addresses an application for leave to participate in the Commission of Inquiry into Money Laundering in British Columbia (“**Inquiry**” or “**Commission**”) under s. 11(4) of the *Public Inquiry Act*, S.B.C. 2007, c. 9 [**Act**] brought by John Devine.

2. The deadline to seek participant status was September 6, 2019. Mr. Devine did not seek an extension of time. In the interests of the efficient and effective conduct of the Inquiry, I order an extension of time for Mr. Devine to bring this application pursuant R. 5 of the Commission Rules of Practice and Procedure.

B. LAW

3. I reviewed the mandate of the Commission and the relevant law in respect of applications to participate in my September 24, 2019 ruling (the “**September Ruling**”).

4. The statutory provisions that govern applications for participant status are ss. 11(4)(a)-(c) of the *Act*. Those sections read as follows:

11(4) On receiving an application under subsection (3), a commission may accept the applicant as a participant after considering all of the following:

- (a) whether, and to what extent, the person's interests may be affected by the findings of the commission;
- (b) whether the person's participation would further the conduct of the inquiry;
- (c) whether the person's participation would contribute to the fairness of the inquiry.

5. The relevant considerations in determining whether to grant participant status include (September Ruling at para. 11):

- a. the nature and extent of the applicant's rights or interest;
- b. why standing is necessary to protect or advance the applicant's rights or interest;
- c. whether the applicant faces the possibility of adverse comment or criticism with respect to its conduct;

- d. how the applicant intends to participate, and how this approach will assist the Commission in fulfilling its mandate;
- e. whether and how the applicant's participation will contribute to the thoroughness and fairness of process;
- f. whether the applicant has expertise and experience relevant to the Commission's work;
- g. whether and to what extent the applicant's perspective or interest overlaps or duplicates other applicants'; and
- h. whether the applicant may participate in another capacity — for example, as a witness who may testify — instead of being granted formal standing.

6. The Commission relies on the submissions of applicants to assess whether their rights and interests might be affected over the course of the Commission process. Consideration of whether an applicant's participation will contribute to the fairness of the process requires attention to the non-exhaustive list of factors outlined in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817.

C. JOHN DEVINE

7. Mr. Devine is a resident of Orillia, Ontario. Relevant to the context of this application is that, for a number of years, Mr. Devine was employed at a casino located in Ontario. He is currently the Assistant Editor of *AwakeningNews.ca*.

8. Mr. Devine's grounds in support of his application for participant status are twofold.

9. The crux of Mr. Devine's first submission is that he might provide evidence that shows the current privacy regime unduly prevents Canadian banks from assisting police in their investigations of money laundering. Mr. Devine offers in this respect his experience with financial institutions and privacy legislation, which he says would highlight for the Commission the need for consideration by lawmakers on the issue.

10. Mr. Devine's second submission relates to evidence of alleged human rights violations at the Ontario casino during his tenure as its employee, which he submits are part of a broader pattern of corruption and, ultimately, money laundering. He alleges that he was forced to work in conditions that violated health and safety legislation, and that various government and law enforcement agencies did not respond to his attempts to alert them to the situation. Mr. Devine offers to provide the Commission with evidence detailing these events in order to expose a broader pattern of corruption between the casino, organized crime and government officials.

11. Mr. Devine's submissions do not suggest that the Commission's findings will affect his interests, as an individual applicant, outside of his interest in an effective anti-

money laundering enforcement model in Canada. Nor are his interests in a hazard-free workplace engaged under the scope of the Commission's work pursuant to its Terms of Reference. Mr. Devine does not face the possibility of adverse comment or criticism with respect to his conduct. In other words, standing is unnecessary to protect or advance any identified interest. This weighs against granting participant status.

12. Mr. Devine's submissions, interpreted generously, bear an ancillary connection to matters within the Commission's mandate. This includes the financial institutions and gaming sectors, and barriers to effective law enforcement. Outside of personal experience, Mr. Devine has identified no expertise that would assist the Inquiry. To the extent Mr. Devine is interested in exploring whether and how gaming facilities within British Columbia were used for money laundering, and the information-sharing relationship between financial institutions and law enforcement, his interests align with those of the Commission. Commission counsel will explore those issues, and it will fall to Commission counsel to put forward the information, submissions and evidence.

13. In my view, applying the criteria above, the participation of Mr. Devine is unlikely to further the conduct of the Inquiry or contribute to its fairness.

14. The refusal of participant status does not preclude Mr. Devine, or members of the broader public, from contributing to the process of the Commission in another capacity. As I noted in the September Ruling (at para. 8):

Persons who do not receive a grant of standing may become involved in several ways; for example, by submitting written comments to the Commission about any matter relevant to the [Commission's Terms of Reference], participating as a witness, and attending the formal public hearings. ...

15. I am not satisfied that Mr. Devine meets the criteria for participant status. Accordingly, I dismiss the application.

Commissioner Austin Cullen