

Commission of Inquiry into Money Laundering in British Columbia

Application for Standing – Ruling #10

Ruling of the Honourable Austin Cullen, Commissioner,
issued September 29, 2020

A. BACKGROUND

[1] This ruling addresses an application for leave to participate in the Commission of Inquiry into Money Laundering in British Columbia (“**Commission**” or “**Inquiry**”) under ss. 11(3) and (4) of the *Public Inquiry Act*, S.B.C. 2007, c. 9 (“**Act**”) brought by the Chartered Professional Accountants of British Columbia (“**CPABC**”).

[2] The deadline to seek participant status was September 6, 2019. As part of its application, CPABC seeks a preliminary order extending the time for its application for standing. In the interests of the efficient and effective conduct of the Inquiry, I order an extension of time for CPABC to bring this application pursuant to R. 5 of the Commission’s 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. CPABC

[7] CPABC is a statutory corporation continued under the *Chartered Professional Accountants Act*, S.B.C. 2015, c. 1 (“**CPA Act**”). It acts the sole statutory professional regulatory body for professional accountants in British Columbia.

[8] The coming into force in June 2015 of the *CPA Act* unified all professional accountants in British Columbia under a common regulatory framework. The *CPA Act* amalgamated and continued, as CPABC, a number of predecessor organizations: the Certified General Accountants of British Columbia, Certified Management Accountants Society of British Columbia and the Institute of Chartered Accountants of British Columbia. As such, CPABC’s membership includes individuals who were members of these former organizations before June 2015, who subsequently became chartered professional accountant (“**CPA**”) members of CPABC under the *CPA Act*.

[9] Section 3 of the *CPA Act* sets out the mandate of CPABC:

(a) to promote and maintain the knowledge, skill and proficiency of members and students in the practice of accounting;

(b) to establish qualifications and requirements for admission as a member and continuation of membership, and for enrolment and continuation of enrolment of students;

(c) to regulate all matters, including competency, fitness and professional conduct, relating to the practice of accounting by members, students, professional accounting corporations and registered firms;

(d) to establish and enforce professional standards;

(e) to represent the interests of members and students.

[10] CPABC currently has over 37,000 CPA members.

D. SUBMISSIONS

[11] CPABC submits that its work and the services its members provide fall within the scope of the Commission's Terms of Reference. It submits that participation status will permit CPABC to bring relevant background and insight to the Inquiry's examination of the professional service sector, namely, the accounting profession and its regulation in British Columbia.

[12] As the statutory regulatory body for professional accountants in British Columbia, CPABC says, its interests may be affected by the Commissioner's findings and any resulting recommendations. CPABC cites in particular an expert report expected to be tendered in evidence before the Commission that may relate directly to the CPA profession in British Columbia and, accordingly, to CPABC.

[13] CPABC further submits that a factor in support of granting participant status is that CPABC will play a significant role in implementing any recommendations made by the Commission related to the accounting profession.

E. DISCUSSION

[14] As noted by CPABC, none of the participants granted standing in the Inquiry to date bring a focus on the practice of accounting or on the role of CPABC as the regulatory authority for professional accountants in British Columbia.

[15] The Commission's Terms of Reference require the Commission to make findings with respect to the extent, growth, evolution and methods of money laundering,

including “professional service, including legal and accounting”. The Terms of Reference also capture acts or omissions of regulatory authorities in respect of those sectors, which authorities include CPABC as the regulatory body for professional accountants.

[16] In my view, CPABC is uniquely situated as the regulator of professional accountants to provide insight into potential money laundering issues involving the profession. Further, CPABC’s status as a participant will permit a broader scope of inquiry in the professional service sector as it relates to witness, experts and records. The participation of CPABC is likely to further the conduct of the Inquiry and contribute to its fairness insofar as the Terms of Reference require the Commission to examine the professional service sector.

[17] I am satisfied that CPABC meets the criteria for participant status. Accordingly, I grant standing to CPABC with respect to the professional service sector.

[18] CPABC will be subject to the Commission’s Rules of Practice and Procedure, and must avoid duplication of the contributions of other participants with standing in the professional service sector of the Inquiry hearings.

A handwritten signature in black ink, appearing to read "Austin Cullen". The signature is fluid and cursive, with a large loop at the beginning and a long tail extending to the right.

Commissioner Austin Cullen