

**CULLEN COMMISSION OF INQUIRY INTO
MONEY LAUNDERING IN BRITISH COLUMBIA**

The Honourable Mr. Austin F. Cullen, Commissioner

**OPENING STATEMENT OF
GAMING POLICY ENFORCEMENT BRANCH
AND MINISTRY OF FINANCE**

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1. INTRODUCTION

1. Money laundering is not a victimless crime. As we have experienced over the past decade, money laundering has had – and absent action on the part of all stakeholders, will continue to have – a significant impact on the lives of ordinary British Columbians. Money laundering has distorted BC's economy, fueled the overdose crisis, and driven up housing prices.

2. The accounts of millions of dollars flowing through BC casinos by way of hockey bags filled with \$20 bills are now well known, as is the "Vancouver Model". The lower mainland has unfortunately earned an international reputation as a haven for money laundering. This did not happen overnight or without warning signs. The past cannot be undone, but what government can do going forward is learn from the past and take proactive steps to make British Columbia the most difficult jurisdiction in which to launder money.

3. British Columbians deserve to know how money laundering was allowed to proliferate, who the key players are, and the true scope of the problem. What role did bureaucracy and lack of communication or coordination between stakeholders play? Was there willful blindness to what was happening in favour of income generated for public and private purses? Are there legislative or other barriers that prevent prosecution of money launderers? And most importantly, what is the true extent of money laundering in the province and what steps can be taken to stop it?

4. The reviews by Dr. Peter German and the Expert Panel on Money Laundering in Real Estate provide a starting point and have highlighted for government, and for all British Columbians, that money laundering is a significant challenge facing our province today. The work done by these experts has shown that money laundering is not limited to any particular segment of our economy, and that we must respond to this challenge with a coordinated, integrated approach that spans across sectors and industries.

5. Government recognizes the need for immediate action and has already taken significant steps to combat money laundering on multiple fronts, including banning un sourced bulk cash transactions in casinos and creating a new landowner beneficial ownership registry. As these initial steps show, government is willing to make the difficult

decisions necessary to disrupt money laundering in our province for the long-term benefit of all British Columbians.

6. Yet there is still much work left to be done. Implementing effective practices and procedures to combat money laundering is a pressing issue and one in respect of which Government welcomes the Commission's work, findings and recommendations. The factors that allowed money laundering to flourish in BC over the past decade are complex and will take time to address, but government is committed to moving forward with the necessary comprehensive reforms required to ensure that past mistakes are not repeated.

7. The Commission's broad mandate and independence from government will ensure that it can do the difficult work necessary without influence from political, partisan or economic influences. In this regard, government appreciates the balance that the Commission will need to find in doing its work without interference in criminal investigations, and is confident that the Commission is pursuing all lines of inquiry. As Commissioner Cullen has noted, the Commission's full allegiance must be to the people of British Columbia, and not to any other interest, priority or agenda.

8. Government strongly supports the Commission's work and welcomes the opportunity to engage with the Commission through its process. Government is committed to full participation in this inquiry, both through the Ministry of Finance and the Gaming Policy Enforcement Branch (GEPB) as participants, and also by way of facilitating the Commission's access to documents and the attendance of government employees as witnesses across all Ministries.

9. Much can and will be learned from the past over the course of this inquiry, but the focus of today's opening submissions will be to highlight the steps government has already taken to combat money laundering, with a particular focus on the gambling and real estate sectors.

2. GAMING SECTOR

(a) Statutory & Regulatory Framework

10. Legal gambling activities in the Province are regulated pursuant to the provincial

Gaming Control Act,¹ the *Gaming Control Regulation*² and Canada's *Criminal Code*.³

11. GPEB is an office of the provincial government, under the Ministry of the Attorney General. GPEB regulates all gambling in British Columbia, carrying out regulatory activities under the *GCA* and the *Gaming Control Regulation*,⁴ and providing assistance to law enforcement agencies with certain *Criminal Code* investigations.

12. Pursuant to s. 23 of the *GCA*, GPEB provides regulatory oversight of commercial gaming conducted and managed by the British Columbia Lottery Corporation (BCLC), BC's horse racing industry, and licensed charitable gambling events. GPEB's core objective is to ensure that a comprehensive and responsible gaming regulatory framework is in place.⁵ GPEB also manages provincial responsible gambling programs.

13. GPEB is directed by a General Manager (GM), who is typically also an Assistant Deputy Minister. The GM's powers, duties and responsibilities are governed by various provisions of the *GCA*.⁶ Acting under the direction of the GM, GPEB's responsibilities include:

- a. developing and maintaining the policy and regulatory framework for gaming and horse racing and advising the minister on broad policy, standards and regulatory issues;
- b. establishing public interest standards for gaming operations, including on issues related to extension of credit, advertising, types of activities allowed and policies to address problem gambling;
- c. licensing, regulating and managing the conduct of horse racing in British Columbia including the overseeing of horse racing events, determining the outcome of each race and adjudicating any related matters;⁷
- d. registering all gaming services providers, gaming workers, and lottery retail

¹ S.B.C. 2002, c. 14

² B.C. Reg. 208/2002

³ R.S.C. 1985, C-46

⁴ B.C. Reg. 208/2002

⁵ Gaming Policy Enforcement Branch Annual Report 2018/2019, p.3

⁶ *GCA*, ss. 26-29, 78-81, 99

⁷ GPEB does not regulate betting on horse races. The federal Canadian Pari-Mutuel Agency is responsible for regulating and supervising pari-mutuel betting in Canada.

managers;

- e. auditing BCLC, commercial gaming facilities, BCLC's online gambling platform (PlayNow.com), horse racing facilities, lottery retailers, licensed gaming events and community organizations' use of gaming proceeds; and
- f. undertaking investigations for the purpose of enforcing the *GCA*.

14. Under s. 28(1) of the *GCA*, the GM may issue directives to facilitate the carrying out of responsibilities under the *GCA* to GPEB, BCLC or both. BCLC is required to comply with directives issued by the GM, and those directives must be made public.⁸

15. As the branch of government responsible for BC's provincial gambling policy, GPEB is also responsible for:

- a. providing advice to the minister on all gambling policy matters, including both regulatory matters and certain BCLC operational matters, such as reviewing BCLC's Operational Service Agreements with gaming service providers, requests for approval of new lottery schemes, and Service Plans and Annual reports;
- b. managing the distribution of gaming proceeds to communities and community organizations, including reviewing BCLC's financial statements, distributing funding, and making payments to local governments and the horse racing industry and the payments made under the Province's Community Gaming Grant program; and
- c. delivering the province's Responsible and Problem Gambling Program, which includes arranging for contracted third parties to provide prevention services through education and training in schools and the community, early intervention and harm reduction services, and clinical counselling for individuals and families negatively impacted by gambling products.

16. GPEB has six divisions that carry out its core business, three of which are particularly relevant to the Commission's mandate: Licensing, Registration and

⁸ *GCA*, ss. 28(2), (4)

Certification Division, Compliance Division, and Enforcement Division. Each division is lead by an executive director.

17. GPEB's Licensing, Registration and Certification Division is responsible for the registration and certification of the gambling industry, and for licensing charitable gambling events. The Registration and Certification Units are in turn responsible for registering companies and individuals involved in gambling, and for certifying gambling supplies and equipment respectively. Their objective is to ensure the integrity of the companies, individuals, supplies and equipment involved in gambling.

18. GPEB's Compliance Division works to ensure regulatory compliance with the *GCA* and *GCR*. The division conducts inspections and audits of gambling in British Columbia to ensure compliance with legislation, regulation, public interest standards and directives. GPEB staff make inquiries into complaints or violations to determine if there is a need for education or training or a resolution through an administrative sanction. The division conducts both commercial and charitable gambling audits.

19. As part of enhancing GPEB's enforcement capacity, the Enforcement Division was created in late 2018. This Division enforces provisions of the *GCA*, the *Gaming Regulation*, the *Criminal Code* and other provincial statutes under the authority of Special Provincial Constable appointments. The Enforcement Division works collaboratively with BCLC, gaming service providers (casinos) and law enforcement agencies.

20. The Enforcement Division consists of two units: the Investigations Unit and the Intelligence Unit. The Investigations Unit investigates instances of any conduct, activity or incident occurring in connection with gambling that could threaten the integrity of the industry, including money laundering. Under the *GCA*, GPEB has the authority to recommend charges for prosecution, issue tickets and warnings, and/or recommend administrative sanctions. In support of their regulatory responsibilities, this Division enforces provisions of the *GCA* and the *GCR* and provides assistance to law enforcement agencies with certain *Criminal Code* of Canada investigations.

21. The mandate of the Intelligence Unit is to provide timely and accurate intelligence products to gaming stakeholders and decision-makers with a mission to enhance situational awareness of any threats to the integrity of gambling in the Province. Six GPEB

investigators and a manager in the Enforcement Division are embedded with and work as part of the Joint Illegal Gaming Investigation Team (JIGIT).

(b) Relationship between GPEB and BCLC

22. GPEB's mandate includes regulatory oversight of BCLC. BCLC is a Crown Corporation controlled by the Province of British Columbia and an agent of the Crown.

23. Pursuant to s. 7 of the *CGA*, BCLC is responsible for the conduct and management of commercial gaming on behalf of Government, including lottery, casino, bingo and online gambling. Virtually all commercial gaming in the Province operates under BCLC's control.

24. Under s. 6 of the *GCA*, the Minister may issue written directives to BCLC on matters of general policy. The Minister also issues BCLC an annual mandate letter providing high level policy direction.

25. BCLC and the GM have distinct roles under the *GCA*. In its conduct and management of gaming, BCLC's power and authority does not arise from or depend upon any statutory decisions made by the GM. BCLC is not a registrant or licensee under the *GCA*. Section 78(2) of the *GCA* gives the GM the authority to conduct audits and investigations "to monitor compliance of the lottery corporation with this Act and the regulations".

26. The Minister of Finance is BCLC's fiscal agent and the net income generated by BCLC is delivered to the Province, and in turn used to fund health care, education, charitable community programs and other essential programs and services. In fiscal 2018/2019, commercial gambling returned \$1.4 billion in revenue to government, of which \$982 million was allocated to the Consolidated Revenue Fund to support government programs and services, \$147.2 million allocated to the Health Special Account for health care initiatives, and \$140 million allocated to non-profit community groups from Community Gaming Grants.⁹

27. BCLC is the entity responsible for the conduct and management of gambling in the province and as such, is the reporting entity to the Financial Transactions and Reports

⁹ GPEB Annual Report 2018/2019, pp. 11-12

Analysis Centre (FinTRAC) under s. 5(k) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*¹⁰ (*PCMLTFA*). FinTRAC requires that entities responsible for the conduct and management of gaming submit transactional reports to it. Thus, in British Columbia, BCLC, and not the casino operators, is obligated to report under the *PCMLTFA*.

28. Pursuant to the *PCMLTFA*, BCLC is required to, among other things, maintain a comprehensive compliance program (including anti-money laundering training, reviews and audits) and comply with all transaction reporting requirements (including suspicious transaction reports, applicable electronic funds transfers, large cash transactions and casino disbursement reports).

29. In turn, gaming service providers (casinos) handle transactions with patrons and are responsible for monitoring the activities of gamblers. Gaming service providers report Unusual Financial Transactions (UFT) to BCLC. BCLC reviews and prepares STRs upon establishing reasonable grounds to suspect those transactions are related to proceeds of crime, money laundering or terrorist financing and submits those reports to FinTRAC.

30. UFT and STR information is provided to GPEB through reports made under s. 86(2) of the *GCA* and s. 34(1)(t) of the *GCR*. Section 86(2) requires BCLC, registrants and licensees to notify the GM of any conduct or activity connected to a lottery scheme or horse racing that may involve a commission of an offence under the *Criminal Code* or the *GCA*. Section 34(1)(t) requires gaming service providers to immediately report to the GM any conduct or activity at or near a gaming facility that is or may be contrary to the *Criminal Code*, the *GCA* or any regulation under the *GCA*

(c) *Dirty Money Report & Interim Recommendations*

31. In September 2017, after learning of transactions suggesting that BC casinos were being used to launder millions of dollars of proceeds of crime, the Attorney General appointed independent expert Dr. Peter German to conduct a review of money laundering in the gambling industry. GPEB supported Dr. German's work.

32. In December 2017, Dr. German made two interim recommendations in the course of his ongoing review of anti-money laundering policies and practices in the lower

¹⁰ S.C. 2000, c. 17

mainland gambling industry:

- a. that a mandatory requirement be imposed requiring gaming service providers (casino operators) to complete a Source of Funds Declaration for cash deposits or bearer bonds of \$10,000 or more, which declaration must outline a customer's identification and provide the source of their funds, including the financial institution and account from which the cash or bond was sourced; and
- b. that GPEB increase its on-site presence at large, high-volume casino facilities in the lower mainland with a GPEB investigator on-shift and available on a 24/7 basis.

33. A mandatory source of funds declaration was implemented in gambling facilities in January 2018. Bank-level proof of cash for buy-ins of \$10,000 or more in a 24-hour period is now required. BCLC reports that this has already resulted in changes to player behaviour including a reduction in unsourced cash. Implementation of mandatory source of funds declarations has resulted in a continued softness in table gambling revenue.¹¹

34. From May 2018 to June 2019, GPEB conducted three audits at the five largest lower mainland casinos to assess service provider compliance with the policy and identify any issues that might impact efficacy. Concerns identified during these audits and compliance monitoring have been addressed.

35. In order to increase its onsite regulatory presence in accordance with Dr. German's interim recommendations, GPEB has shifted existing investigative resources and has hired 12 new investigators to be available during peak hours (16 hours per day) at the five high-volume casinos in the lower mainland: River Rock Casino Resort, Parq Vancouver, Grand Villa Casino, Hard Rock Casino and Starlight Casino. Investigators are scheduled during peak time based on a risk assessment of indicators of suspicious casino activity. In addition, a GPEB Gaming Investigator is available by phone 24 hours a day, 7 days a week for these high-volume casinos.

36. In June 2018, Dr. German's final report *Dirty Money: An Independent Review of*

¹¹ BCLC Service Plan 2020/21-2022/23 p. 13

Money Laundering in Lower Mainland Casinos was publicly released and identified systemic weaknesses that allowed the proliferation of money laundering through predominantly lower mainland casinos. More specifically, *Dirty Money* concluded that for many years certain Lower Mainland casinos unwittingly served as laundromats for the proceeds of organized crime, and that this problem grew over the years to the point of overtaking the ability of the existing legislative and regulatory framework to effectively respond and curtail it.

37. Dr. German made 48 recommendations for preventing money laundering in British Columbia's gaming facilities. Government has accepted all of Dr. German's recommendations in principle and has started implementing those recommendations as appropriate. Implementation is being led by government in coordination with BCLC and other stakeholders and to date, 17 of Dr. German's recommendations have been addressed.

(d) Transition to Independent Gambling Control Office

38. One of the means by which government intends to enhance the effectiveness of gambling regulation and enforcement in BC is by implementation of a more independent regulatory office and a standards-based regulatory model.

39. Adopting a more effective and flexible standards-based model will allow the regulator to adapt and evolve with the gambling industry, while also clearly defining the roles and responsibilities of the regulating and operating entities. Compliance standards are intended to be objective and measurable, and will be performance and outcomes based. Yet where necessary, e.g. for matters of higher risk, the new model is intended to permit the regulator to set more prescriptive requirements, and will also include strong administrative law powers for instances of non-compliance.

40. In furtherance of this, GPEB will be transitioned to the new Independent Gambling Control Office (IGCO). The IGCO will have the mandate, authority and independence to ensure the overall integrity of gambling in BC. It will focus exclusively on regulatory policy matters related to gambling, horse racing and responsible-gambling programs. The IGCO will have the authority to set and enforce new provincial regulatory anti-money laundering requirements for BCLC and the commercial gambling industry. Amendments to the *GCA* will also clarify the regulator's role in mitigating the risks of money laundering

in casinos.

41. The IGCO will be overseen by a general manager appointed by Cabinet for a fixed term and will be required to report publicly to the Legislative Assembly on its operations.

42. In addition, in November 2018, certain amendments to the *GCA* were brought into force to begin the process of creating a more independent gambling regulator.¹² First, s. 28(2) of the *GCA* was amended to empower the General Manager to make directives to BCLC without Ministerial Approval. Prior to this amendment, GPEB's General Manager was required to receive approval from the Minister before issuing a directive applicable to BCLC. Elimination of this requirement provides GPEB with greater independence from government and clarity in its role as BCLC's regulator.

43. Second, s. 92 of the *GCA* was amended to extend the authority to refuse entry to a gambling facility if the presence of a person is reasonably believed to be "undesirable", including persons who may be associated with criminal organizations or money laundering. Previously, only BCLC had the authority to refuse entry.

44. Finally, s. 97(2.1) of the *GCA* was amended to include BCLC within the list of organizations or entities that commit an offence if they do not provide information requested by GPEB for the purpose of an investigation or fail to report to GPEB incidents involving the commission of an offence under the *GCA* or *Criminal Code*. This amendment is intended to promote compliance with statutory requirements and provide effective sanctioning powers. Prior to this amendment, BCLC was not subject to these offence provisions.

45. These amendments and transition to the IGCO will address concerns raised by Dr. German that decisions about regulatory policy should be made separately from decisions about revenue generation. The work necessary to bring this new regulatory model into effect is already underway, and government presently intends to introduce legislation in spring 2021 to bring the IGCO into force.

¹² Bill 57, *Attorney General Statutes Amendment Act, 2018*

(e) Increased coordination between GPEB/BCLC/Law Enforcement

46. Lack of coordination and clarity of roles/responsibilities between GPEB, BCLC and law enforcement appears to have contributed to money laundering proliferating in BC casinos in the past and government looks forward to guidance from the Commission on how to most effectively coordinate within respective spheres of responsibility going forward.

47. Pursuant to a March 2004 memorandum of understanding, GPEB and the RCMP established the Integrated Illegal Gaming Enforcement Team (IIGET). IIGET's mandate was to maintain the integrity of public gambling in the province by enhancing the level of enforcement specifically targeting illegal gambling.

48. IIGET was intended to continue for a 5-year period ending March 31, 2008. A 2007 review of IIGET identified various limitations including staffing issues and IIGET's focus on gambling outside of casinos as opposed to illegal activity inside casinos. Following that review, IIGET's mandate was extended by one year, to March 2009.

49. In January 2009, a review prepared for IIGET's Consultative Board noted that Canadian casinos were vulnerable to money laundering because they deal in cash and handle millions of dollars on a daily basis, and that Asian organized crime figures were believed to be involved in illegal gaming activities, including loan sharking and money laundering. Despite these findings, the IIGET memorandum of understanding was allowed to expire and IIGET was disbanded on March 31, 2009.

50. It was not until 7 years later, in 2016, that government and the Combined Forces Special Enforcement Unit BC (CFSEU-BC) joined forces to form the Joint Illegal Gaming Investigation Team (JIGIT) as a coordinated investigation unit designed to crack down on illegal gambling and money laundering inside and outside casinos. While JIGIT is a unit within the RCMP, seven GPEB staff are embedded within JIGIT in investigative and intelligence capacities and continue to provide in-depth gambling expertise to JIGIT and other law enforcement agencies throughout the province.

51. JIGIT's primary focus is to disrupt organized crime and gang involvement in illegal gambling and to prevent criminals from using BC gambling facilities to launder the

proceeds of crime.¹³ At the time it was established, JIGIT's three primary strategic objectives were: targeting and disrupting organized crime and gang involvement in illegal gaming; criminal investigation of illegal gambling activities; and prevention of criminal attempts to legalize the proceeds of crime through gaming facilities (money laundering).

52. Another key component of government's approach going forward is to continue a renewed cooperative approach between GPEB, BCLC and law enforcement to prevent laundering of the proceeds of crime in BC's gambling facilities.

53. Thus in January 2018, GPEB (Enforcement Division), BCLC (AML and Investigations) and JIGIT (Intelligence and Investigations) formed the Gaming Intelligence Group (GIG). The objective of the GIG is to enhance the current anti-money laundering regime in BC casinos by opening lines of communication to more broadly share information surrounding suspicious transactions, high risk patrons and threats of criminality. The GIG holds weekly teleconferences to share information about real-time incidents, including examining suspicious transactions and areas of concern. GIG also holds monthly meetings that focus on identifying overall trends and how current processes should be modified and improved.

54. In 2019, members of GPEB's Intelligence Unit were integrated with law enforcement within JIGIT to form the Gaming Intelligence Unit (GIU). The GIU's mandate is to provide a quality, dedicated, integrated and coordinated multi-jurisdictional intelligence approach to illegal gaming in British Columbia, with an emphasis on transnational organized crime networks and money laundering. The GIU will enhance all levels of enforcement, disruption, deterrence and prevention by specifically targeting high-threat criminal entities. The GIU will manage available information deemed to have a significant threat to the integrity of gambling and develop actionable intelligence about criminal involvement in gambling, including money laundering, for all levels of law enforcement and the provincial regulator.

3. REAL ESTATE SECTOR

55. In September 2018, the Province launched a two-pronged review aimed at shutting

¹³ GEPB Annual Report 2018/2019, p. 21

down avenues for money laundering in real estate and other sectors. The first component, led by the Ministry of Finance, was to identify systemic risks that leave the real estate and financial services sectors open to money laundering. The Ministry of Finance appointed Professor Maureen Maloney to chair the Expert Panel on Money Laundering in Real Estate. The Panel examined how regulation related primarily to the corporate and financial sectors can be used to combat money laundering and market abuse related to the real estate market. The Panel reviewed BC's financial regulatory system, examined international anti-money laundering best practices, and made recommendations to improve the BC financial regulatory framework and integrate BC's regime into core federal anti-money laundering legislation and practice.

56. The second component, led by the Attorney General, was to investigate specific case examples of problematic activity in real estate and other vulnerable sectors to uncover the ways that money launderers have operated in the province. The Attorney General asked Dr. Peter German to conduct this review following up on his initial finding that the real estate sector is vulnerable to abuse by organized crime. Dr. German's review examined whether there is evidence of money laundering in the real estate, horse racing and luxury car sectors.

57. The Expert Panel's report and Dr. German's report were delivered to the government in March 2019. The reports shed light on why housing prices in BC, and in particular the lower mainland, have become disconnected from local incomes. The Expert Panel estimated that \$7.4 billion was laundered in BC in 2018. The Panel found that a significant part of the money laundering flow is invested in real estate, estimated to be up to \$5.3 billion in 2018, representing almost 5% of the total volume of transactions in the province. The Panel estimated that the effect of money laundering is to make house prices in BC between 3.7% - 7.5% higher than they would be in the absence of money laundering. British Columbians were understandably troubled by these figures.

58. The Expert Panel made 29 recommendations for an effective system to combat money laundering and control market abuse in real estate. The recommendations include provincial regulatory improvements, improvements to national anti-money laundering legislation and practice, and improved data sharing and institutional coordination. The

Panel identified the disclosure of beneficial ownership as the single most important measure that can be taken to combat money laundering.

59. Dr. German found evidence that the proceeds of crime are being laundered in many sectors in BC, including through real estate purchases. Dr. German found that private mortgage entities are a growing segment of the lending market and are vulnerable to being used for criminal purposes, including money laundering. These entities are not reporting entities to FinTRAC and there is no visibility of their beneficial owners, source of funds or lending practices. Dr. German also found that the use of nominees, or straw buyers, in real estate transactions is commonplace and is exploited by criminals engaged in money laundering.

60. Dr. German found that of the legal entities that hold \$28 billion in residential property in BC, the vast majority are privately owned with no information about who ultimately controls them. Dr. German observed that the combination of opaque ownership structures and all-cash purchases increases the money laundering risk considerably, particularly when a nominee or offshore buyer is involved.

61. The impact of money laundering in BC can be seen in every corner of our province: driving up the cost of goods, affecting business competitiveness, eroding the trust in our economy and institutions, and facilitating criminal activities such as drug trafficking that is responsible for the many opioid-related deaths in this province. Money laundering corrodes the rule of law, encourages criminal activity and distorts markets contributing to housing unaffordability.

62. Money laundering has no place in our society. The Province is committed to developing and implementing a long-term Provincial Anti-Money Laundering Strategy so that BC has a strong and sustainable anti-money laundering regime. Some of the recent steps taken by the Province to combat money laundering in the real estate market are outlined below.

(a) The Land Owner Transparency Registry

63. Money laundering often relies on the ability to disguise the ownership of property in order to make it difficult to link the property back to the proceeds of a specific crime or

the fact that the property is being used for a criminal purpose. Opaque ownership structures have allowed criminals to remain anonymous and have provided a veil with which to conceal money laundering activity in real estate.

64. The Provincial government recognizes the need for immediate, comprehensive and forward-looking action to put an end to the hidden ownership of BC real estate. Last spring the Province passed the *Land Owner Transparency Act*,¹⁴ which establishes a publicly accessible registry of beneficial ownership in real estate. This registry will be the first-of-its-kind in Canada and will provide valuable information about the true ownership of real estate in BC.

65. The *Land Owner Transparency Act* requires corporations, trusts and partnerships, which currently own or buy land, to disclose their beneficial owners in the registry. Corporations, trusts and partnerships that fail to disclose will be subject to administrative penalties of up to \$50,000 or 5% of the assessed property value, and for criminal offences up to \$100,000 or 15% of the assessed property value.

66. The Land Owner Transparency Registry will help give tax auditors, law enforcement agencies and federal and provincial regulators the information they need to conduct their investigations and to crack down on those engaged in tax fraud and money laundering. The establishment of the registry will result in more money laundering being detected and more enforcement action being taken.

(b) Creation of a Single Regulator

67. Creating a single regulator for real estate was one of the central recommendations from Dan Perrin's Real Estate Regulatory Structure Review report released in September 2018. Commissioned by the Ministry of Finance as a result of concerns about the effectiveness of real estate regulation in BC, the review found that the current structure has resulted in systemic barriers to effective regulation. Mr. Perrin recommended that the Office of the Superintendent of Real Estate and the Real Estate Council of BC be merged into the Financial Institutions Commission (FICOM) as the single regulator. This recommendation was echoed in the report of the Expert Panel on Money Laundering in

¹⁴ S.B.C. 2019, c. 23

Real Estate.

68. The Province's establishment of the BC Financial Services Authority (BCFSA) last fall reflects government's commitment to building a modern, efficient, and effective regulatory framework. The *Financial Services Authority Act*,¹⁵ established the BCFSA as a new Crown entity that replaces FICOM. On November 1, 2019, FICOM was dissolved and BCFSA took on all of FICOM's regulatory responsibilities.

69. The Ministry of Finance is targeting fall 2020 to bring forward new legislation to include real estate in BCFSA's mandate by spring 2021. The Office of the Superintendent of Real Estate and the Real Estate Council of BC will be integrated within the BCFSA and, as the single regulator, the BCFSA will take responsibility over real estate licensing, conduct, investigations and discipline. The BCFSA will fully leverage expertise and best practices across regulated industries, including mortgage brokers, real estate, insurance, trusts, credit unions and pensions.

(c) *Mortgage Brokers Act*

70. The *Mortgage Brokers Act*,¹⁶ was originally enacted in 1972 as consumer protection legislation in response to an increased number of mortgage brokers and complaints of gross and unconscionable interest rates and fees. At the time, mortgage brokers were considered the lenders of last resort. Over the years the industry has changed and has become part of the mainstream financial market.

71. Although the *Mortgage Brokers Act* has been amended several times since its enactment, it has not kept pace with evolving national and international standards in consumer protection, changes in the financial services market and emerging issues such as money laundering in the real estate market. The Expert Panel on Money Laundering in BC Real Estate described the *Mortgage Brokers Act* as antiquated and recommended replacing the legislation with a modern statute to regulate all those in the business of mortgage lending, with few exceptions.

72. Financial sector stability and consumer protection remain core priorities for

¹⁵ SBC 2019, c. 14

¹⁶ R.S.B.C. 1996, c. 313

government. These priorities are balanced with the need to ensure that the industry is not unduly burdened and that regulations do not stifle innovation or create barriers to new entrants. The ultimate goal is a regulatory framework that helps to ensure that British Columbians continue to benefit from a financial services sector that is strong, stable and inspires public confidence and trust.

73. Last month the Ministry of Finance released a consultation paper to elicit discussion and feedback from stakeholders on replacing the current *Mortgage Brokers Act* with more modern provincial legislation. The Ministry is proposing to develop legislation that clearly sets out current best practices by: requiring licensing of all mortgage brokering with limited exceptions; providing for minimum standards of conduct and a duty of care to consumers; requiring transparency and disclosure in mortgage transactions; providing enhanced disclosure and reporting requirements for more complex products; and reducing regulatory gaps, leveraging work done in other provinces and respecting existing inter-jurisdictional agreements. The consultation period is open until March 13, 2020.

(d) The Finance Real Estate and Data Analytics Unit

74. In fall 2019, the Ministry of Finance created a Finance Real Estate and Data Analytics Unit (FREDA). FREDA has a Data Branch and a Policy Branch. The current focus of the Data Branch is to develop the analytical capacity to support anti-money laundering initiatives and tax policy analysis. The Policy Branch is developing anti-money laundering policy and legislation, including the work being done in response to the recommendations of the Expert Panel on Money Laundering in Real Estate.

(e) The Federal / Provincial Ad Hoc Working Group on Real Estate

75. Canada and BC have developed a working group to enhance communication, information sharing and alignment amongst relevant operational and policy partners to explore and better address issues and risks related to fraud, money laundering and tax evasion through real estate in BC.

76. Participants in the group include the federal Ministry of Finance, Canada Mortgage and Housing Corporation (CMHC), Canada Revenue Agency (CRA,) FinTRAC, StatsCan, RCMP, Bank of Canada, BC Finance, BCFSA, Ministry of Public Safety and Solicitor

General (PSSG), the Ministry of Attorney General, CFSEU-BC, RECBC and the Office of the Superintendent of Real Estate of BC.

77. The group is co-chaired by federal and BC Finance officials and includes the following activities:

- a. discussing compliance issues with tax and anti-money laundering rules in BC's real estate sector, and other related sectors that facilitate real estate transactions;
- b. developing a clearer understanding of the challenges government agencies have in carrying out their mandate in the real estate sector; sharing information between federal and provincial agencies; and
- c. discussing how existing systems can be leveraged to improve information gathering and assist authorities such as FinTRAC in the detection of suspected money laundering or the CRA and law enforcement authorities.

78. The group has had 2 face-to-face meetings in 2019 and is planning a third on Feb 26/27 2020. The group is split into 3 workstreams: data, regulatory frameworks and enforcement. Each group is working towards providing recommendations at the end of 2020.

(f) Other

79. Other action taken by the Province to address money laundering, tax fraud and to close loopholes in the real estate market includes: the establishment of Canada's first online register for pre-sale condo sales to track assignments; updating the property transfer tax return to uncover beneficial owners behind corporations and trusts; enacting legislation to allow information sharing with federal tax officials regarding the homeowner grant to improve tax enforcement; and strengthening property transfer tax auditors' ability to take action on tax evasion.

4. OTHER VULNERABLE SECTORS

80. Dr. German's first report made clear that money laundering is not limited to casinos and recommended that the Province undertake research into the vulnerability of the real

estate, luxury car and horseracing sectors to organized crime. The Province acted on these recommendations by commissioning Dr. German's second report and the Expert Panel's review of money laundering in real estate. In Dr. German's second review he found that as traditional financial institutions tighten their systems and reporting, other industries and professions become more attractive to criminal elements.

(a) Corporate Beneficial Ownership Transparency

81. The Expert Panel on Money Laundering in Real Estate highlighted the importance of corporate beneficial ownership disclosure to the disruption of money laundering. The Expert Panel found that, in addition to public beneficial ownership disclosure for land, public beneficial ownership disclosure for legal persons, such as corporations, trusts and partnerships, will add valuable information that is vital to law enforcement, tax authorities and federal and provincial regulators in undertaking investigations.

82. The Provincial government has already taken significant steps to increase corporate transparency. Last spring, the government amended the *Business Corporations Act*,¹⁷ to require private companies to maintain records of beneficial owners, referred to as "significant individuals" in the legislation. As of May 1, 2020, all BC private companies will be required to keep transparency registers with accurate and up-to-date information about the true owners of their shares. The transparency register must include registered owners, beneficial owners and owners that have indirect control. Law enforcement, tax authorities and certain regulators will be able to access a private company's transparency register. The amendments will also require existing bearer shares to be converted to shares compliant with the *Business Corporations Act* in order to exercise a right attached to the shares.

83. The Province is currently engaging the public on next steps for increasing beneficial ownership transparency. Last month the Ministry of Finance released a consultation paper on a Public Beneficial Ownership Registry. A government-maintained registry of beneficial ownership would require companies to upload their transparency register information to a government database. This would allow law enforcement, tax authorities

¹⁷ S.B.C. 2002, c. 57

and authorized regulators to access the data much faster and in a more cost-effective manner.

84. Government is currently seeking public input on issues related to the proposed Beneficial Ownership Registry including: potential impacts on business operations; public access to the registry; verification of beneficial ownership information; compliance and enforcement; and whether transparency disclosure obligations should extend beyond private companies to include trusts and partnerships. The consultation period is open until March 13, 2020.

(b) Post-Secondary Institutions

85. Dr. German identified the province's post-secondary system as a sector vulnerable to money laundering. Dr. German found that some students bring only cash to pay for their tuition and expenses, and sometimes attempt to pay for multiple semesters in advance. Students have been known to register in person and, after paying their fees, will withdraw from the institution and receive an institutional cheque in reimbursement of their fees. Students have registered from abroad and will then withdraw before the deadline for refunds, utilizing an agent to collect their refund cheque. Some overseas students will appoint an educational agent, a nominee, or a proxy to register on their behalf, pay their tuition, and later withdraw and collect their return.

86. Government is actively engaged in working with post-secondary institutions to ensure they are not targets for money laundering. Last spring the Minister of Advanced Education, Skills and Training wrote to all public and private post-secondary institutions in BC to alert them to Dr. German's findings. The Minister asked all institutions to immediately review their financial policies to ensure that payments with large amounts of cash (e.g. thousands of dollars) from a single student are not accepted. If the institution has a current policy regarding the acceptance of cash, the Minister requested that the institution share its policy with government, including any proposed changes, to help inform any future guidance or direction the Ministry may provide on this issue. If the institution does not yet have a policy regarding the acceptance of cash, the institution was asked to advise the Ministry of the institution's expected timeline to develop a policy.

5. COORDINATED APPROACH: AML STRATEGY

87. Money laundering is a complex problem and Government recognizes that an effective regulatory and enforcement response to this problem must have the flexibility to respond across sectors. As such, government is working across ministries to develop and implement a long-term, strong and sustainable AML strategy that uses targeted actions and tools to identify, prevent and disrupt illicit activity.

88. In furtherance of this, in June 2019, the Province re-established the Anti-Money Laundering Deputy Ministers' Committee with an expanded mandate and updated membership and roles. The objective of the AML Deputy Ministers' Committee is to lead the development of a provincial multi-sectoral strategic response to anti-money laundering. The expanded mandate aims to ensure a coordinated, government multi-sectoral approach to AML issues, respond to the German Reports and the Maloney Report, and attend to implementation of recommendations arising out of those reports and the Commission's work.

89. The Committee is responsible to the Attorney General, Minister of Finance and Solicitor General and is supported by the Anti-Money Laundering Secretariat, the Ministry of Finance's policy and legislation division and Public Safety and Solicitor General's Policing and Security Branch.

90. The responsibilities of the AML Deputy Ministers' Committee include: developing a cross-government approach and strategy for a Provincial response to money laundering; providing strategic direction and guidance for AML activities to ensure alignment with the AML objectives and AML report recommendations; monitoring project progress, timelines and deliverables; managing critical issues and minimizing barriers and impediments to achieving AML objectives; and maintaining alignment, coordination and integration across all government AML activities.

91. Recognizing that the success of a provincial multi-sectoral anti-money laundering strategy is linked to federal anti-money laundering strategies and initiatives, the AML Deputy Ministers' Committee and the AML Secretariat are also tasked with reviewing ongoing federal initiatives and engaging in meaningful dialogue with federal counterparts.

6. CONCLUSION

92. Money laundering is a complex problem that requires a multi-faceted response. Without intervention, the criminal economy remains a very real threat that will continue to impact British Columbian families. Evidence of this threat is manifested in an opioid crisis that has and continues on a daily basis to claim the lives of far too many British Columbians, and a real estate market where hard-working, law-abiding families are priced out of home ownership in favour of straw buyers and criminals.

93. Government is committed to building a robust anti-money laundering regime with an integrated, coordinated and agile strategy aimed at disrupting money laundering activities through detection, deterrence and prevention of illicit behaviour. In this regard, it encourages the Commission to be fearless and ambitious in its work. The consequences of not examining how money laundering was permitted to proliferate and failing to address this crisis are serious and ongoing.

94. Increased sharing of information and a coordinated response from federal and provincial stakeholders will be a key component of addressing money laundering in the province. Government is optimistic that the Commission's work will illustrate where coordination is needed most and how we can effectively facilitate multi-jurisdictional entities working together.

95. Government looks forward to participating in the Commission's process and welcomes the Commission's findings and recommendations. While some initial actions have already been taken, government comes to this inquiry with an open mind and a willingness to take additional steps as necessary to ensure that money laundering does not continue to undermine our economy and negatively impact the lives of British Columbians.

96. By learning more about what happened in the past in terms of decisions and regulatory or enforcement gaps that may have facilitated the proliferation of money laundering in British Columbia, we will be better able to put in place more effective regulatory and enforcement regimes for the future.

97. Government thanks the Commissioner and commission counsel for their dedicated efforts in furtherance of the Commission's mandate, and also wishes to express its

appreciation and thanks to all of the participants for contributing their perspectives and assisting the Commission over the course of this inquiry.

98. This inquiry has an ambitious mandate, but one that is of significant importance to all British Columbians. Government is confident that the Commission's work will provide the information necessary to identify and close key loopholes, draft improved laws, and improve enforcement activities to assist in removing dirty money from our province.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Vancouver, British Columbia, this 23rd day of February, 2020.



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