

The Law Society of British Columbia



August 29, 2019

CONFIDENTIAL

Sent via email to participants@cullencommission.ca

The Honourable Austin Cullen, Commissioner
Commission of Inquiry into Money Laundering in British Columbia

Nancy G. Merrill, QC
President

Dear Commissioner:

**Re: Application for Participant Status in Commission of Inquiry into
Money Laundering in British Columbia (the “Commission”)**

Office Telephone
604.605.5394
Office Email
president@lsbc.org

Pursuant to the Commission’s Rules for Standing, the Law Society of British Columbia (the “Law Society”) hereby applies for participant status on the bases set out below.

BACKGROUND

The Law Society regulates the more than 12,500 practising lawyers in British Columbia under the authority provided in the *Legal Profession Act*, S.B.C 1998, c. 9 (the “LPA”). As set out in section 3 of the LPA, the Law Society’s object and duty is to uphold and protect the public interest in the administration of justice by, among other things, ensuring the independence, integrity, honour and competence of lawyers; establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission; and regulating the practice of law.

THE LAW SOCIETY’S INTEREST IN AND PROPOSED CONTRIBUTION TO THE INQUIRY

The work of the Law Society and the services that its members provide fall within the scope of the Commission’s terms of reference (the “Terms of Reference”).

DM2455202

Pursuant to the Terms of Reference, the Commission is to examine “*the extent, growth, evolution and methods of money laundering*” in the professional service sector, including legal services. Members of the Law Society provide legal services and they may also, in the course of their work, interact with certain other sectors (such as real estate, financial and corporate) listed in the Terms of Reference.

The Commission is also tasked with examining the work of regulatory authorities who deal with the professional services sector and making recommendations as required. The Law Society has various powers, duties and functions regarding the regulation of lawyers and their services. As it is potentially affected by findings of fact made by the Commission and any resulting recommendations, the Law Society should have the opportunity to have input.

More broadly, both the Law Society and the legal profession recognize and take seriously the risks that money laundering and terrorist financing pose to the public interest. The Law Society seeks to ensure that lawyers in British Columbia do not, knowingly or otherwise, facilitate money laundering. To that end, it has established and continues to refine rules and expectations (such as in respect of client identification and verification, and limiting cash transactions); has undertaken efforts to educate the profession; operates a comprehensive trust assurance and audit program; conducts investigations and, where warranted, pursues disciplinary action; and engages with government, policing agencies and other investigative bodies, such as the B.C. Securities Commission and the Real Estate Council. The Law Society also engaged with the authors of the reports that underpin the Terms of Reference, and with government in relation to efforts to increase the transparency of land ownership in B.C. The Law Society would bring to its role in the inquiry the background, insight and commitment reflected above.

In addition, the Law Society is well aware of the need to take into account the duties that members of the legal profession owe to their clients, including in respect of solicitor-client privilege. In this regard, the Law Society is participating (through the Federation of Law Societies of Canada) in a working group with the federal Departments of Justice and Finance to help establish best practices that are mindful of those duties. The Law Society was an intervener in *Canada (Attorney General) v. Federation of Law Societies of Canada*, [2015] 1 SCR 401, 2015 SCC 7, which addressed issues of solicitor-client privilege in the context of money laundering regulation. The Law Society would bring this awareness and experience to both substantive and procedural issues that may arise in the course of the inquiry.

Reflective of the Law Society's potential role, Commission counsel has already reached out to the Law Society regarding document-related issues, by letter dated August 1, 2019. The letter includes the statement that "*[w]hile we are not yet at the stage where we are ready to make a specific document request from the Law Society of British Columbia, I anticipate that we may do so in the future.*" The Commission's Introductory Statement also indicates that "*Inquiry staff will...be seeking the production of pertinent documents from regulatory, enforcement and other agencies relevant to the growth and evolution of money laundering in British Columbia*". The Law Society may have comments on the production, use, interpretation and/or application of any documents that come to be requested from it.

NATURE AND EXTENT OF THE LAW SOCIETY'S PARTICIPATION

The Law Society seeks standing as its interests are engaged by, and it has a meaningful contribution to make to, various aspects of the Commission's mandate. While in light of its interests and expertise the Law Society would not wish at this stage to constrain the scope of participation that it is permitted to have, the Law Society will need to assess, as the Commission's process is further mapped out and communicated, what role would be appropriate for it to play at given stages of the work that the Commission undertakes. For example, the Law Society would not necessarily wish to be present at a stage of hearings that may be limited to particular subject matter which it determines is not relevant to its work or that of its members, and in relation to which it is unlikely to have a meaningful contribution. More generally, the Law Society will also need to be mindful of its priorities and resources in assessing the nature and extent of its participation on particular issues.

CONTACT INFORMATION

The primary contact person at the Law Society in relation to this matter is:

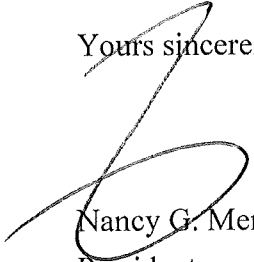
Don Avison, Executive Director/Chief Executive Officer
The Law Society of British Columbia
845 Cambie Street
Vancouver, BC V6B 4Z9
Telephone: 604.443-5766
Email: davison@lsbc.org

Counsel for the Law Society is:

Ludmila B. Herbst, Q.C.
Farris LLP
2500-700 West Georgia Street
Vancouver, BC V7Y 1B3
Telephone: (604) 661-1722
Email: lherbst@farris.com

Please do not hesitate to be in contact with either of the above if you would like any further information pertaining to this application.

Yours sincerely,



Nancy G. Merrill, QC
President

NM:jm