

## Nanninga, Tanera AG:EX

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**From:** Eby, David AG:EX  
**Sent:** Thursday, January 4, 2018 4:03 PM  
**To:** Anderson, Dulcy LASS:EX  
**Subject:** Housing

Thank you for writing to me about housing issues.

As you may know, my colleague Carole James is working on several measures related to speculation, loopholes and tax evasion in the housing market in conjunction with the preparation of our February budget. As I have more information I can share, I will let you know.

In the meantime, although it is not squarely related to housing, I thought you might find my remarks related to trans-national money laundering in BC casinos of interest.

I delivered this speech, which touches on areas broadly related to housing policy, to a December conference co-hosted by Transparency International Canada, UBC's Allard Law School, and the International Centre for Criminal Law Reform.

It may give you some idea of the challenges our new government faces, and the need for the significant reform work we are undertaking.

Yours truly,

David Eby

MLA, Vancouver Point Grey

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## **Nanninga, Tanera AG:EX**

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**From:** Eby, David AG:EX  
**Sent:** Tuesday, January 2, 2018 1:53 PM  
**To:** Anderson, Dulcy LASS:EX  
**Subject:** TI remarks to be forwarded to HALT  
**Attachments:** Thank you for inviting me here to speak today.pdf

Transparency International event remarks to be forwarded to HALT.  
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Thank you for inviting me here to speak today. I'd like to begin by recognizing that we are gathered on the traditional territories of the Musqueam, Squamish and Tsleilwauth peoples.

It's a great honour to be here with you today. It's a privilege to be with so many policy leaders on the issue of anti-corruption, transparency, accountability and good governance. And it's timely.

When our premier John Horgan appointed me Attorney General, he gave me a special role in the government. The traditional role of the Attorney General is an important one, and a dual role. There is a political aspect – I am part of the executive committee, the cabinet, of our government. I participate with colleagues in political decisions on policy direction around the cabinet table.

However, I also have another important role. As Attorney General, it is my role to ensure that our government adheres to the rule of law. That government, as much as any other person or group in our society, must follow the law.

I interpret this important responsibility broadly.

Our government has a duty not just to follow the black letter law, but also to take, I believe, our governance responsibility in this respect to the next level.

It is not our role to sit back and say, "Well, the current law permits us to act in a manner that is clearly illegitimate or improper," to participate in a grey market, to engage in willful blindness about how our system is being used. It is not government's role to sit back and permit free-riders to exploit weaknesses in enforcement, oversight or legislation at the expense of the entire province.

I say this because I am concerned our province under the last administration has gained an international reputation as a scofflaw. As a jurisdiction where the rules do not apply to white collar crime, fraud, tax evasion, and money laundering, where even if the rules do apply, enforcement is absent.

It is clear, in my opinion, that the previous administration was aware we had a serious and growing reputational issue. It is also clear to me that they evaluated the costs of cracking down on white collar crime, on fraud, on money laundering, and determined that the benefits of inaction outweighed the costs of action.

Because they did not take the actions required to address the issues we have.

It is hard for me not to speculate that some may have gone further and seen a lax approach to money laundering, fraud, corporate transparency, land title registry transparency, as a competitive advantage, or a budgetary advantage, for the province.

But, of course, nobody wrote this down. I'm just speculating.

If anyone did see a lax approach to white collar crime, tax evasion and money laundering as a net benefit to BC, they were dead wrong. The chickens have now come home to roost, and our international reputation is on the line.

I do not make this assessment lightly.

I would like to catalogue for you the reasons that I have come to these conclusions, and I would like to recognize at the outset that despite my commitment, shared with you, to transparency, my comments are unfortunately limited by my obligations to prevent inadvertent harm to law enforcement investigations.

As a result, much of my information presented to you today will come entirely from open source information. Some of it is informed by my personal experience since becoming Attorney General. A bit of it is new information, that I share for the first time with you today.

### **Arriving as Minister**

On arriving as a new Minister, freshly appointed, staff from various areas of the public service and our crown corporations and regulators come to brief you on the files you have inherited.

I was sat down by members of BC's Gaming Policy Enforcement Branch. One of the members of the public service said, "Get ready. I think we are going to blow your mind."

He was right. While I cannot share all of the details, I can advise you that the briefing outlined for me allegations of serious, large-scale, transnational laundering of the proceeds of crime in British Columbia casinos.

I've tried a couple of times to express to people how surprising it was to see such a frank admission of this problem come from the public service given that I was the critic on this file for a number of years, and had often raised concerns about money laundering given the size and volume of large cash transactions passing through BC casinos.

Since these matters have become more public, in part due to the efforts of my office, and in significant part due to the efforts of reporter Sam Cooper of the Vancouver Sun, many people have said to me, "Well, of course you knew that this was going on, you asked the government about it."

It's not quite so simple. My many, many queries to the previous government on these cash transactions were met by flat denials of any serious, let alone transnational criminal, issue.

At this briefing, surrounded by members of the public service and a representative of the RCMP, I felt a bit like a UFO-ologist being invited to the Roswell military base and being introduced to an alien.

We knew there was something strange going on, but, my God, we had no idea it was this big.

In response to this briefing, I released a secret report on the issue in full, a report commissioned by the Ministry of Finance under the last government, but never released.

I hired someone who knew more about the field than I did to tell me how we could best clean up this mess. I am grateful to Dr. Peter German for taking on this responsibility, his investigation and review is currently underway and his report to me will be complete by March, 2018.

I have reason to believe that these matters might be linked to other areas of BC's economy, and I have asked Mr. German to examine these connections as well.

He has provided me with early recommendations that I have presented to BCLC and the Gaming Policy Enforcement Branch, recommendations that I will be releasing on Tuesday of next week.

That's some of the new information I'm sharing with you.

The back story of how we got to this point in our casinos is significant, and interesting.

### **History of the casino issue**

In 2009, the province's integrated gambling policing team produced a report. The report said, according to the Vancouver Sun, that quote "known gangsters were gambling in BC casinos."

The report detailed links to extortion, prostitution, loan sharking and kidnapping, as well as links to various organized crime groups including the Hells Angels, Asian organized crime groups and Italian crime groups operating illegal gambling sites.

Reforms were proposed to address the identified need, and to improve the ability of the existing policing team in identifying and prosecuting offenders.

In response to this startling report from the police about the need to increase enforcement, the Province of BC, under the oversight of then Minister Responsible Rich Coleman, defunded the policing team, shutting it down.

Fast forward to March 2016, where a memo to the former Finance Minister, Mike Dejong, who had seen massive increases in provincial gambling revenue, identified, again according to the Vancouver Sun, that there had been "a significant increase in the use of illegal gaming houses in the province and the legitimization of proceeds of crime through BC's gaming facilities."

This was not the first report received by the then Finance Minister on the problem, there were countless red flags from regulators, just the most explicit. It is important to note that this same period was a period of exceptional growth in the province's gaming revenues.

Although the activity behind the scenes in government was remarkable, in the legislature, you would never have guessed there was a problem.

A month after receiving that report about the significant increase in the legitimization of proceeds of crime through BC's gaming facilities, the former Finance Minister told the legislature, on April 4, 2016, quote "I can tell you this. We take very seriously the obligation that we have to British Columbians to ensure that the activities that take place within regulated and lawful gaming establishments are being conducted with proceeds that are not – I repeat not – the result of criminal activity."

Given this gap between public statements by government, and the reality on the ground, on becoming Minister, in addition to hiring Dr. German, I took steps to release key documents so that the public would understand the extent of the challenge we face.

The public is no longer in the dark about what is going on. And they shouldn't be.

And there is surely more to come.

For example, in one of the more disturbing moments of the many briefings I have received on this issue, I was advised that the particular style of money laundering in BC related to BC casinos is being called quote, "the Vancouver Model" in at least one international intelligence community.

I'd like to underline this point.

The previous administration's lax attitude towards this issue means British Columbia has apparently developed its own, internationally recognized, model of money laundering.

This has a major and serious consequence for our international reputation, and also for the encouragement of whatever illegal activity might be generating these proceeds of crime.

#### **Problems outside casinos too**

I was not the only person inheriting problems as we took power.

My colleague, Carole James, as Finance Minister, was inheriting responsibility for a program called Advantage BC. Advantage BC was a tax scheme that exempted employees, and profits, from provincial taxes for financial corporations who work internationally.

While at first blush it sounds like an interesting, and fairly common, way to increase competitive advantage for local financial firms competing with others in low-tax jurisdictions, the system was set up and the benefits administered by a private society who refused to name who received the administered tax benefits, and what the value was of the tax benefit they received.

The consequences of this lack of transparency and accountability for Advantage BC was not just bad policy – banks in BC got making record profits already got income tax free status for their profits from international currency exchanges for their customers, work they would have done anyway – but it was also bad international news for BC's reputation.

A major player in Advantage BC, a full member of the society, was a firm called PacNet. PacNet is a payment service provider that does international transactions. They enjoyed provincial tax subsidies to engage in this business.

On September 22, 2016, the Treasury Department of the US government issued a press release calling PacNet a "Significant Transnational Criminal Organization." They alleged PacNet accepted and deposited millions of dollars from elderly and vulnerable victims of mail fraud scams. PacNet allegedly took a cut

and then returned the rest to the alleged fraud artist via wire transfers from a holding account alleged to obscure the source of the funds.

The connections between Advantage BC and PacNet, and that PacNet had chosen Vancouver as their headquarters to run this alleged transnational criminal organization, was noticed by the New York Times.

In a May, 2017 article, New York Times reporter Dan Levin wrote, "British Columbia is well known for its spectacular landscape and outdoorsy living...A fact not so well known? It has a sweet deal for businesses, offering them tax breaks in an unusually opaque agreement," the article listed PacNet, China Poly Group, and the Bank of China as members who received benefits of unknown value under the scheme.

The new Finance Minister, Carole James, to her credit, cancelled the Advantage BC program as one of her first acts in introducing the interim budget of our government.

Questions remain about PacNet's activities, but regardless of the merit of the serious allegations made against this firm, there are some obvious reasons why a transnational money laundering organization might choose to locate in British Columbia, and it's not just because of the tax benefits the previous government offered without any measure of transparency or accountability.

#### **Why criminal organizations might consider locating in BC**

A great benefit to a company seeking to evade accountability to legal or tax authorities is a lack of transparency related to ownership.

Transparency International Canada has rightly noted that British Columbia's corporate registry does not require declaration of beneficial ownership of companies in our province. Alberta, right next door, does; however, there is no shortage of companies in our province where the sole director of the company is a lawyer, (in addition to law firms). These are firms where the sole director is a lawyer, one could argue, in order to shield the true owners of the company from disclosure. That is certainly the effect.

Frustratingly when I was in opposition, seeking to identify directors of companies with political links to the governing party, I was unable to search the registry by director, only by corporate name.

Opposition MLAs, journalists, and others who seek to hold companies and political parties accountable, should be able to search a corporate registry by director. The absence of a search tool like this is an anti-transparency problem, and is conspicuous in the Google era as appearing to be a deliberate or grossly negligent decision that limits transparency, a benefit to firms and individuals who wish to evade accountability.

Another great benefit to a company seeking to evade accountability is an enforcement regime that does not produce significant consequences for company principals in the event of detection.

Just last week, gaps in enforcement of securities laws in British Columbia were exposed by a series of articles by Vancouver Sun reporters. In particular, headlines reading "Hundreds of Millions of Penalties

by BC Securities Commission going unpaid,” were matched with striking statistics about less than 2% of penalties and fines being collected by the Commission.

The Securities Commission in BC hears allegations around what is generally known as white collar crime. Ponzi schemes. Fraud. Investment rip offs.

There is no question about the fact that BC as a jurisdiction has preferred to proceed in cases of fraud by Securities Commission investigation and penalties over police investigation and criminal charges. Major cases involving fraud in the millions of dollars regularly proceed in the Securities Commission forum instead of a criminal trial.

The advantages of this approach are clear. They include a tribunal like the Securities Commission evaluating cases on a balance of probabilities standard of proof instead of the more challenging proof of an offence beyond a reasonable doubt; tribunals offer a faster process with more relaxed rules of evidence ensuring a reduced time gap between offence and decision.

The downsides are equally obvious. Penalties at tribunals like the Securities Commission are less serious for individuals and companies than criminal convictions. For a senior who has been cheated out of his or her retirement savings, a tribunal penalty seems like a shallow consequence, or a cost of doing business, for what makes a much bigger difference to their life than a petty theft that might result in a criminal record for the perpetrator.

The tradeoff of administrative process over criminal charges is made to ensure consequences for bad conduct, not alleviate or prevent consequences.

I don't want to discount the difficulty in recovering penalties and fines from individuals who have designed their business to avoid accountability. This is difficult work. My colleague the Finance Minister could put significant effort and resources into this file and not significantly increase our collection of penalties and awards.

But with fewer than 2% of penalties and fines collected, and limited criminal charges going ahead, the message is obvious to those who might wish to participate in white collar crime.

You'll have a better chance to get away with it in BC.

This message is not acceptable, and our government will be receiving proposals from the Securities Commission to improve enforcement. I am engaged with conversations with Ministry staff around how to increase the likelihood of fraud, money laundering and tax evasion cases being treated with the prosecutions that they deserve.

That work is ongoing.

A final and more notorious benefit to an individual or corporation seeking to avoid the law and accountability in British Columbia is the fact that you can put your money into housing here without having to give up your name or identity.



There is a growing outrage among people in the lower mainland that their housing market has transitioned from one that is rationally connected to local incomes, to one that has no connection to local wages.

Reports released from distinguished economists like Richard Wozny and Tom Davidoff make inescapable arguments that taxable incomes reported to Revenue Canada have no connection to real estate values in Metro Vancouver until you get out to the distant suburbs of Vancouver.

The question that flows from this economic reality is quite simple. Where is the money coming from?

Groups like Transparency International Canada in their recent report, authored by Adam Ross, point out that we don't even know who the actual owners are of almost half of Vancouver's most expensive properties because of a lack of transparency in our land registry about beneficial ownership. Offshore and domestic trusts, numbered companies and stand-in owners like students and housewives obscure the source of funds in our real estate market.

Others have pointed out that for luxury and commercial properties, transfer taxes are avoided through a non-transparent transfer of trust benefit rather than a sale of the property itself. Such a transfer results in no change in ownership being registered in the public registry.

Unacceptable.

And we are moving to address these issues as quickly as we can.

But the previous administration was well aware of these issues. They were aware of these issues through the work of investigative journalists like Sam Cooper, Kathy Tomlinson, and Dan Levin. They were aware of these issues because of the work of Transparency International Canada and other non-profit accountability groups. They were aware of these issues because their staff told them these were issues.

And the consequences of not acting are very apparent now.

Our own internationally recognized model of money laundering.

Articles in the New York Times outlining a cozy and opaque tax break program exploited by an alleged transnational criminal organization, and an out of control political donation system.

A preference for administrative penalties over criminal charges for white collar crime, but penalties that go uncollected.

A total lack of transparency around who owns half of the 100 most valuable real estate properties in our biggest city, and real estate values completely disconnected from local wages reported for tax purposes.

### **Time for action**

Our government has only been in power for six months.

In that time we have ended the big money donations running our political system. Two bills, one for municipal and one for provincial political parties became law yesterday when they received royal assent. No more donations from corporations or unions. No more individuals above \$1200 for individuals effective January 1. No more donations from outside BC.

We have cancelled the Advantage BC program. We have begun the work of reforming our Securities Commission's collection processes. We have opened the eyes of the public to the disturbing activities taking place at BC casinos and launched an investigation and review by an esteemed former senior police officer and expert on anti-money laundering policies. We will implement his recommendations.

My colleague Carole James has already passed measures in the budget to enable information sharing to modernize our tax system and respond to the problems in housing values departing from reported taxable incomes. She is doing the policy work required to reform our land and corporate registries to increase transparency.

So it's not that government responses were impossible, and some are not even particularly difficult.

Even the most basic measure of adequate whistleblower mechanisms for government employees and crown corporation employees was not implemented by the previous government.

You may be aware that before the election, the government reported an \$11m shortfall at ICBC. This shortfall was actually \$900m for the fiscal period, 9000% higher than reported to the public. A whistleblower employee from ICBC came forward in the media to allege that, while it was not the whole problem, that his concerns about abuses and fraud on the system by some auto body repair shops were ignored by ICBC management.

There was no mechanism for this individual to report outside of ICBC.

A similar situation happened in relation to documents obtained by reporter Sam Cooper at the Sun. An individual with access to internal gaming regulatory documents, and obviously concerned about lack of action on ongoing money laundering concerns, released those confidential internal documents to Mr. Cooper.

To provide an avenue to employees in these situations, we will be introducing a whistleblower protection program for the BC government and crown corporations, with reports by concerned public servants to an independent third party outside of their direct employment group. We expect to introduce this long overdue legislation next year.

You cannot build a strong home for British Columbians on a foundation of illegitimate activity. Thanks to the work of many of the people in this room, we have the policy tools and information we need to give us a head start to check some big items off the list.

But we know that fraud, tax evasion, money laundering, and corruption do not sleep – we will continue to need your assistance in identifying reforms required to combat this type of crime that costs so many

people so much, and we will ask for your support when we implement measures that will disrupt business as usual for those who rely on a lack of transparency.

I thank you very much for your work, for your reports, for your advocacy. Keep it up. I look forward to spending much of today with you to learn more about how we can get our province back on track, and earn a new reputation.

A reputation as a leader in transparency, in accountability and in anti-corruption initiatives, a reputation as a leader in the fight against money laundering, tax evasion and white collar crime.

We can do it together.