

Subject: Public inquiry discussion

Date: Friday, February 15, 2019 at 2:28:03 PM Pacific Standard Time

From: Meggs, Geoff PREM:EX

To: Wright, Don J. PREM:EX

CC: Kennedy, Christine PREM:EX, Fyfe, Richard J AG:EX, Smith, George AG:EX

Don, this note is just to record the Premier's wish to see the proposal for a public inquiry into anti-money laundering efforts.
s.12; s.13

Geoff

CHIEF OF STAFF,

OFFICE OF THE PREMIER

West Annex, Parliament Buildings

Victoria BC V8V 1X4

EXECUTIVE SUMMARY

INTRODUCTION

All those attributes which make Greater Vancouver a very desirable region in which to live, also make it desirable to organized crime. In recent years, the region has acquired an unenviable reputation for serving as a site for money laundering, drug trafficking, and capital flight. The region is home to dozens of organized crime groups, including many with transnational connections that reach most continents of the world.

We already know that money laundering was occurring in Lower Mainland casinos for the better part of a decade and was so notorious that an expert on Asian organized crime observed the phenomenon from his university in Australia and called it the 'Vancouver Model'. This term resonated in the media and was repeatedly used with reference to what was taking place in the casinos. As we shall see in this report, the same model or typology of money laundering was also occurring in other sectors of the economy and continues to this day.

It is both an embarrassment and a threat to a society that adheres to the Rule of Law, for organized crime to take advantage of all that is good in our society and subvert it for pecuniary advantage. Organized crime survives because there is a market for its product. This includes those of us who purchase illegal drugs, counterfeit products, and stolen property, as well as those who operate in the underground economy and subvert tax laws.

Money laundering may also occur a great distance from the predicate offences which produced the proceeds of crime. In this context, it is alarming to know that Greater Vancouver has also acted as a laundromat for foreign organized crime, including a Mexican cartel, and s.13 all seeking a safe and effective locale in which to wash their proceeds of crime.

This Report serves as a further window into the money laundering that exists in Greater Vancouver and provides potential solutions to a vexing problem, which simply cannot be allowed to continue unchecked.

The *Dirty Money* report released by the Attorney General in June 2018 focussed on the laundering of cash in casinos. This is an example of the first stage of money laundering, referred to as placement (the wash cycle). In it, s.13 finds a way into the mainstream financial system. In s.13 we provide many more examples of dirty cash moving into the mainstream financial system, but we also consider the second (layering) and third (integration) stages of money laundering, which involve the movement of dirty money, generally through wire transfers or underground bankers. These transactions or arrangements occur in nanoseconds and are intended to disguise the money trail, purchase new illegal product, or spend the profits of crime.

REAL ESTATE

In the past few years, Greater Vancouver has been at the confluence of ^{s.13}

^{s.13} the proceeds of criminal activity, large amounts of capital fleeing China and other countries, and a robust underground economy seeking to evade taxes. These three rivers of money coalesce in Vancouver's property market and in consumer goods.

We make no attempt, nor have we been asked to quantify these money streams, although many estimates are already in the public domain. What is clear is that the total sum is large and to ask if it has impacted housing prices in certain communities of the Lower Mainland is really a rhetorical question - of course, it has. As we demonstrate in this Report, the infusion of money into the B.C. economy from abroad led to a frenzy of buying, which in turn raised the assessed value of homes in large swaths of Greater Vancouver.

Opaque ownership structures allow criminals to remain anonymous and provide a veil with which to conceal money laundering activity in real estate. Of the legal entities that hold \$28 billion in residential property in B.C., the vast majority are privately owned with no information on who ultimately controls them. There is no way to accurately identify nominee owners or properties held through unregistered trusts, ^{s.13}

^{s.13} Requiring beneficial owners to be identified for all properties (including those held through nominees) would make money laundering a much less desirable business. ^{s.13}
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Unfinanced purchases, or 'cash buys', comprise 17% to 21% of residential transactions in B.C. They are more common among higher-risk buyers such as companies (29% to 38%), trusts (58%), nominees (20% to 28%) and offshore buyers (32% to 40%). The aggregate declared value of cash buys in the past 20 years is \$84 to \$212 billion¹ (the current assessed value of those properties is much higher, at \$230 to \$440 billion).

Private lending is a major money laundering vulnerability. ^{s.13}

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Mortgages from

unregulated lenders were a common feature in the sample of properties we analyzed which had known or suspected ties to criminal activity. They also feature disproportionately in our analysis of other finance-related money laundering indicators such as unusual loan-to-value ratios and interest rates, as well as instances where a titleholder has obtained multiple successive mortgages which are quickly repaid.

Extending the reach of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* to include certain classes of unregulated lenders (such as Mortgage Investment Entities, or those

¹ \$84 billion is a highly conservative estimate, where no mortgage was ever registered on title. The larger \$212 billion figure includes transactions since January 1999 where no mortgage was registered within the first 30 days.

whose lending is above a certain threshold) could deter the use of mortgages in money laundering. The Province could explore additional regulatory measures for the unregulated lending sector, such as beneficial ownership disclosures and annual financial reporting.

Identifying properties that are owned by overseas buyers (including those from high-risk jurisdictions) is practically impossible due to the potential disconnect between titleholders and beneficial owners.^{s.13}

- Only 1% of titles have an owner who lists a service address outside Canada, which appears to greatly underestimate foreign ownership.

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Foreign capital can be channelled through local nominees or companies, or a foreign owner can simply use a local address. There are approximately 1,800 B.C. properties owned by offshore companies (2% of the total). This may be due in part to the lack of transparency in B.C. registered companies, which are just as effective in concealing ownership as many of their offshore counterparts.

A beneficial ownership component to property registration would provide greater clarity regarding foreign ownership and, by extension, disclose whether or not the funds used for the purchase of property originated offshore. Taking legislative steps to make B.C. companies more transparent would make them less vulnerable to money laundering and other criminal activity.

The poor quality of much of B.C.'s real estate data is a significant yet less obvious money laundering vulnerability. Much of the data collected by the Land Title and Survey Authority is in a format that cannot be machine-read, and most fields in its electronic forms are not reliant on drop-down options but rather, allow an applicant to enter any text or figures they wish. This makes it difficult to conduct the sort of analysis that could identify suspicious transactions and patterns. Examples include:

The LTSA and B.C. Assessment have access to powerful databases that could be used to screen for suspicious activity and identify possible money laundering. Neither organization currently has the capacity or mandate to do so. Embedding an AML function with analytics capabilities and full access to each other's dataset could improve detection, serve as a deterrent, and improve information sharing with law enforcement and industry regulators.

The media has drawn attention to the fact that some registered charges on property titles are being used by organized crime to enforce illegal loans and payback schemes. We have seen this with mortgages and, to a lesser extent, builder's liens. What is even more troubling are attempts to enforce these illegal bargains in the civil courts, presumably on the assumption that justice is s.13 blind to what is occurring.

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LAWYERS AND NOTARIES

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In this Report, we provide a detailed overview of the role of the legal profession in Canada and B.C. with respect to financial transparency and client due diligence. We note that the burning issue is the continuing inability of the federal government to address the Supreme Court of Canada's 2015 decision in the *Federation of Law Societies* case, which essentially exempted the legal profession from financial reporting to FinTRAC.

The S.C.C. left it open to Parliament to develop a workaround that would provide a form of reporting which prevented lawyers' trust accounts from becoming a sanctuary for dirty money, while also s.13 dealing with concerns over solicitor-client privilege. The absence of a fix has left it to the provincial law societies to impose rules of conduct on their members that attempt to assuage the concerns of international bodies, which view Canada as an outlier, and

of law enforcement, which has enumerated numerous examples where trust accounts have been misused.

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In B.C., we have some of the strongest rules in place for lawyers, and yet there is no external reporting, and there is no visibility with respect to what is in a lawyer's trust account. There are a plethora of rules concerning the reporting of deposits made to realtors and brokers, and yet closing funds can arrive in a trust account through a ubiquitous electronic transmission that says virtually nothing about the true source of funds. In terms of cash, it has frequently been noted that lawyers cannot accept in excess of \$7,500 (less still for notaries), and yet the exemptions to that rule allow for any amount of cash for the payment of fees and expenses, and for bail.

Furthermore, in B.C. lawyers s.13 can represent one party to a sale and be under no obligation to report suspicious transactions, while a B.C. notary, who is required to report, may represent the other party to the same transaction. Notaries for their part embrace Canada's financial reporting regime and have improved their reporting to FinTRAC.

In the end, it is most important that it be possible to trace dirty money as it transits across the oceans, into and out of bank and trust accounts. Without this ability, law enforcement is left with a partial money trail, which many will argue is of little use.

THE LUXURY VEHICLE MARKET

Greater Vancouver has been described as the luxury car capital of North America. In some cities within the region, it is by no means rare to see Ferraris, Lamborghinis, Mercedes-Benz, and BMWs near to each other in a mall parking lot or filling up at the same gas station.

The traditional intersection between vehicles and crime involves their theft, or theft from them. Much like violent street crime, this is a visible problem which impacts individuals when they find their car is missing or has been vandalized. What we examined, however, was the involvement of organized crime with luxury vehicles. This is a world-wide phenomenon, which serves various purposes including laundering money and funding terrorism. s.13

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Vehicles, like real property, can be a mobile bank account where dirty money can be invested and later sanitized. They can also service the lifestyle of criminals who seek to flaunt their riches. Many have died in their cars and we document that as well. It should come as no surprise that gangsters do not drive 'smart cars'. High-end vehicles are their preference, except for the use of 'disposable cars' when it comes to actually committing a crime.

During the course of this Review, we became aware of a multi-million dollar scheme to purchase luxury vehicles in B.C. and ship them to China, at a great profit^{s.13}

Much of this activity violates arrangements which vehicle manufacturers have with their dealers, but the greater concern is that it is an underground activity involving straw persons who purchase vehicles as nominees for exporters. Purchases can take place with cash, with money transmitted electronically, or through underground banking arrangements.

This scheme interfaces with the legitimate economy when a straw buyer seeks a refund of the provincial sales tax paid on the purchase, due to it being purchased for^{s.13}. Through the co-operation of provincial tax authorities, we learned of the great cost involved in processing these claims and that^{s.13} in excess of \$13 million has been^{s.13} by the^{s.13}
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There have been no large-scale police operations involving the luxury car market in B.C. The cars which have been seized, and many have, are the by-product of other criminal activity, such as drug dealing, and are almost always disposed of through civil forfeiture.

HORSE RACING

Horse racing has been the sport of queens and kings for centuries. Today in B.C. it tends to be a sport dominated by an older crowd, many of whom enjoy the ability to bet on races, either at a

track or online. B.C.'s two active racetracks are propped up financially by the co-location of slot machines.

There has never been a detailed examination of the criminal aspects of this industry in B.C. We undertook a detailed review of its vulnerabilities. It was refreshing to learn that insiders expressed a willingness to work on any improvements.

Although the horse racing sector is small, we point out various opportunities for money laundering and once again, the absence of both financial reporting to FinTRAC, and of a dedicated enforcement presence. We believe that horse racing should be included in the mandates of both the independent casino regulator and the designated policing unit recommended in the *Dirty Money* report. This would be consistent with what occurs in Ontario, which is home to Canada's largest horse racing sector

OTHER FORMS OF MONEY LAUNDERING

The absence of mandatory cash reporting to FinTRAC was a recurring theme in this Review. Canada has adopted a financial reporting model which includes some sectors of the economy and excludes others. This ignores the fact that an effective response to organized crime must be uniform across sectors.

Repeatedly we learned of businesses exempted from financial reporting that were susceptible to organized crime and money laundering. We saw this in the private mortgage and lending sphere, with luxury autos, with betting on horse races and the sale of horses, and a number of other less obvious business streams; including building supplies, home furnishings, and college tuition. In the United States, universal reporting has existed for many years and is not viewed as an undue burden.

Many who oppose reporting point to the fact that virtually all legitimate businesses will deposit their cash in a mainstream financial institution which is captured by reporting requirements to FinTRAC. This argument is flawed. Reporting must occur at the transactional level. The bank teller has no idea that the car dealer sold a luxury vehicle to a known gangster who arrived at the dealership with a shopping bag containing cash. All that she or he sees is the cash on the counter and a reputable dealer asking to deposit the money in a long-standing corporate account.

A rhetorical question we heard many times during this Review was from persons who supported improved reporting. They asked, quite simply, who do you know that carries \$5,000 or \$10,000 or \$100,000 in cash on their person? It is simply not common in this day, and age. Reporting should not pose an undue burden on business. The impact on the flow of dirty money and the underground economy would be immediate and stem the 'whack a mole' trend that we have described, as organized crime moves from one vulnerable industry to another.

Geographic Targeting Orders, such as those in use in the U.S., can supplement universal cash reporting by imposing specific identification and reporting requirements in geographic regions

which are at greater risk of dirty money being inserted into real estate or other sectors of the economy.

THE LACK OF AN ENFORCEMENT RESPONSE

In response to the threat posed by organized crime and money laundering, enforcement and regulatory agencies in British Columbia are woefully unprepared. We learned that there are currently no federal RCMP resources in B.C. dedicated to criminal money laundering investigations. This is particularly^{s.13} when one considers that the issue of money laundering has been front page news in B.C. for almost two years. How can this be? The answer is hardly simple and involves understanding the siloed nature of the federal response to money laundering.

The situation with provincial policing is not much better. With the exception of a unit dedicated to money laundering in casinos, which has yet to show tangible results, there are no provincial police resources dedicated to criminal enforcement of money laundering offences. In fact, both police and prosecutors have essentially checked out of the zone, out of frustration with statutes and court decisions which have made it extremely difficult to pursue financial crime investigations. They are essentially boxed in between the exigencies of disclosure and the accused's right to a trial without unreasonable delay.

Similar concerns apply to fraud and other 'white collar crime' offences. The result has been to refer victims of fraud to local police or the civil courts and for enforcement agencies to embrace civil forfeiture. The criminal provisions respecting laundering and proceeds of crime must^{s.13} be re-invigorated with offences that deal with unidentified wealth, lying to police officers, structured financial transactions, and by removing certain of the shackles which currently make

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s.13 , defeats the very purpose of proceeds of crime legislation, which is to follow the money trail from or to a criminal organization and dismantle it. The civil courts are increasingly being faced with police cases that do not meet the test for a criminal prosecution or suffer from *Charter* violations.

None of the foregoing is the result of a lack of interest or dedication by police or prosecutors. Those would be relatively easy problems to solve. In fact, the issues are much deeper and require a strategic solution. It should come as no surprise that for many years, organized crime has understood the challenges faced by police and prosecutors.

THE FUTURE

One hopes that the 'Vancouver Model' can be turned on its head and become the 'Vancouver Solution'. In fact, most of what Greater Vancouver needs has already been tried here and elsewhere. The use of Special Prosecutors to guide complex financial crime files, just as they currently do with political corruption investigations, is worth considering. Also, the post-Charbonneau development of a large anti-corruption force in Quebec, has proven to be an

excellent blend of preventative and investigative resources, prosecutors and police, from multiple agencies. The Unité Permanente Anti-Corruption has laid criminal charges against 331 people and companies since 2011 and registered 114 convictions.

None of the above is easy and all requires the political and bureaucratic will to create positive change, recognizing that there is a financial cost involved. An even greater price will be paid if we choose to ignore what is before us.

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**INTERGOVERNMENTAL RELATIONS SECRETARIAT
OFFICE OF THE PREMIER**

MEETING NOTE

PREPARED FOR: Premier John Horgan

MEETING WITH: His Excellency Ambassador John McCallum
Ambassador of Canada to China

DATE AND TIME: January 24, 2019 / 9:45AM to 10:30AM

LOCATION: Premier Horgan's Victoria Office

OVERVIEW:

Ambassador McCallum is travelling to Canada and has requested to meet with you to discuss current bilateral issues. You previously met Ambassador McCallum in October 2017.

The visit comes amidst strained relations between Canada and China because of the arrest of Chinese company Huawei's Chief Financial Officer (CFO), Meng Wanzhou, in Vancouver in early December 2018.

Ambassador McCallum's biography is attached as **Appendix I**.

DISCUSSION:

Huawei

On December 1, 2018, Meng Wanzhou was arrested at Vancouver airport by the RCMP on an extradition request by the United States (U.S.). Ms. Meng was charged in the U.S. with conspiracy to defraud international institutions, reports citing her participation in a scheme to evade U.S. imposed trade sanctions on Iran.

The arrest was significant as it was made in the context of ongoing U.S.-China trade tensions. Additionally, three of the 'Five Eyes' intelligence-sharing countries (U.S., Australia, New Zealand) had already banned Huawei from establishing 5G infrastructure in their countries. Canada and the U.K. have not confirmed their plans to do so. The arrest is also high profile in nature, as Ms. Meng is the daughter of the founder of Huawei, Ren Zhengfei who has close relationships with the Chinese government.

The arrest caused tension for Canada-China relations, and for B.C.-China relations specifically because the arrest was in Vancouver, and Huawei is headquartered in Shenzhen, in B.C.'s sister province of Guangdong.

Ms. Meng was released on \$10 million bail and is now living in Vancouver under 24-hour supervision, waiting to return to court on February 6 to set a date for her U.S. extradition hearing. The U.S. has until the end of January to file a formal extradition request. In the days following Ms. Meng Wanzhou's arrest, China detained two Canadian nationals on suspicion of endangering

national security. Michael Kovrig, North East Asia Advisor for the International Crisis Group, and Michael Spavor, consultant with extensive North Korea experience, were both detained by Chinese officials on December 10, 2018. Ambassador McCallum is working closely with Chinese and Canadian officials to secure the safe release of these two Canadians.

On January 14, 2019, Canadian national and former Abbotsford resident, Robert Schellenberg, was sentenced to death (in appeal) by a Chinese court in Dalian, Liaoning province, on drug trafficking charges. This decision came just one hour after the hearing had finished, which some commentators have said reflected poorly on the criminal justice system in China. Mr. Schellenberg had initially been sentenced to a 15-year term in jail for drug smuggling. Prime Minister Trudeau publicly deplored the January 14 decision and accused China of arbitrarily applying the death sentence.

On the same day the Government of Canada updated its travel advisory noting that Canadians intending to travel to China should exercise a high degree of caution in China due to the risk of arbitrary enforcement of local laws, including the death penalty and penalties for drug-related offences. Following this update by Canada, Chinese authorities issued a travel alert warning their citizens to fully evaluate risks of traveling to Canada given the recent "arbitrary detention" of a Chinese national at the request of a third-party country.

The Government of Canada has requested clemency for Mr. Schellenberg and his lawyer said on January 15, 2019 that he will appeal the verdict.

Trade and Investment Relationship between B.C. and China

China is B.C.'s second-largest export market, behind the U.S. In 2017, B.C. exports to China totalled \$6.4 billion, or roughly 15% of B.C.'s total export market. B.C. is the leading Canadian province / territory for exports to China, with a near 30% share of total Canadian exports to China in 2017.

Leading B.C. origin goods exports to China in 2017 included wood pulp, soda or sulphate (28% share of total) lumber (17%), coal (14%) and copper ores and concentrates (11%); B.C. exports to China increased 17% in the period between April to July 2018, relative to the same period in 2017. Notable B.C. export increases include: salmon products, plastics, vegetable oils and motor vehicle parts.

China has become B.C.'s largest tourist source market in Asia, with a 7.1% increase in overnight visits to B.C. in 2017 over 2016. China's economic transformation is increasingly driven by a growing middle class and demand for safe, high quality products. B.C. is well positioned to leverage these trends, particularly in the agri-food and forestry sectors.

China invests heavily in B.C. in sectors including technology, finance (including venture capital), digital entertainment, clean tech, life science and natural resources. BC's natural gas reserves are in demand due to the increase in natural gas usage as a major energy substitute for coal in China. PetroChina, China's largest oil and gas producer and supplier, is one of the major investors in LNG Canada. Recent investment successes from China include: Beijing BDStar Navigation Co. Ltd investing \$41 million in RX Networks Inc.; and, Sinoenergy Corporation investing \$65 million in Steelhead LNG to assist the project moving to the Front End Engineering and Design (FEED) stage in 2018.

Appendix I

Biography of Ambassador John McCallum

The Honourable John McCallum, Ambassador of Canada to the People's Republic of China

**Diplomatic career, 2017-**

Ambassador to the People's Republic of China

Political career, 2000-2017

Member of Parliament for Markham (subsequently Markham-Unionville, Markham-Thornhill)

Served in six ministerial portfolios, including National Defence and Immigration, Refugees and Citizenship

Led initiative to welcome 40,000+ Syrian refugees to Canada (2015-16) and nominated Nelson Mandela as honorary citizen (2001)

Banking career, 1994-2000

Senior Vice President and Chief Economist, Royal Bank of Canada

Academic career, 1976-1994

Economics professor at McGill University, Université du Québec à Montréal, Simon Fraser University, and University of Manitoba, as well as Dean of Faculty of Arts, McGill University

Best known publication: "National Borders Matter: Canada-US Regional Trade Patterns," *American Economic Review*, June 1995

Education

BA, Queens' College, Cambridge

Diplôme d'Etudes supérieures, Université de Paris I

PhD, McGill University

Personal

Married to Nancy Lim McCallum with three sons: Andrew, Jamie, Duncan

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Appendix III –

B.C. Forest Industry Mission to China, December 2018 Summary

- As part of the annual B.C. forest mission to Asia, forest industry delegates visited China from December 12 to 14 for an **industry-only** program by Forestry Innovation Investment (FII) in collaboration with Canada Wood Group.
- The program included:
 - Participation in the Sino-Canada wood conference, which promoted Canadian forest products in China. More than 200 key customers and design and construction professionals attended the conference to learn more about how Canadian wood technology can support China construction objectives.
 - A customer dinner, attended by Canada's Ambassador to China John McCallum, provided an opportunity for the B.C. industry to host customers and reinforce its commitment to the Chinese market.
 - A visit to Xiong'an, a new city being developed outside of Beijing that will showcase green, low carbon sustainable development. Canada Wood is pursuing opportunities to collaborate and introduce low carbon, energy efficient wood construction.
 - A meeting and MOU signing with China Railway Real Estate Group (one of 16 state owned developers tasked with developing Xiong'an). Opportunities to showcase wood in future projects are being pursued.
 - A visit to the Sino-Canada Eco-City project in Tianjin to review progress. The first 100 energy efficient wood townhomes have been completed, and the next phase is in the final planning stages. Three 4-storey office buildings are under construction, which will all showcase wood exterior walls hung on a concrete super structure. Negotiations with the developer continue, for an 8-storey wood hotel project (6 storeys of wood on 2 storeys of concrete). If approved, this will be the largest wood building in China.