## PROCEEDINGS AT HEARING OF JANUARY 11, 2021

## COMMISSIONER AUSTIN F. CULLEN

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Colloquy 1

| 1   | January 11, 2021                                     |
|-----|--|
| 2   | (Via Videoconference)                                |
| 3   | (PROCEEDINGS COMMENCED AT 9:30 A.M.)                 |
| 4   | THE REGISTRAR: Good morning. The hearing is now      |
| 5   | resumed. Mr. Commissioner.                           |
| 6   | THE COMMISSIONER: Thank you, Madam Registrar. Yes.   |
| 7   | Mr. McGowan, do you or Mr. Isaac have conduct of     |
| 8   | the evidence today?                                  |
| 9   | MR. McGOWAN: Mr. Isaac does, Mr. Commissioner.       |
| LO  | THE COMMISSIONER: Thank you. Yes, Mr. Isaac.         |
| L1  | MR. ISAAC: Mr. Commissioner, before we call the next |
| L2  | witness I'd ask that we please tender the            |
| L3  | overview report on the accounting sector in          |
| L 4 | British Columbia dated December 17th, 2020. May      |
| L5  | we please bring that document up, please. I          |
| L 6 | believe that will make if we enter that, it          |
| L7  | will be exhibit 391.                                 |
| L 8 | THE COMMISSIONER: Very well. 391.                    |
| L 9 | THE REGISTRAR: Exhibit 391.                          |
| 20  | EXHIBIT 391: Overview Report on the Accounting       |
| 21  | Sector in British Columbia - December 17, 2020       |
| 22  | MR. ISAAC: Thank you. The next witness,              |
| 23  | Mr. Commissioner, is Matthew McGuire. And he         |
| 24  | will swear.  |

THE COMMISSIONER: Thank you.

25

| 1  | MATTHEW MCGUIRE, called                              |
|----|--|
| 2  | for the Commission,                                  |
| 3  | sworn.   |
| 4  | THE REGISTRAR: Please state your full name and spell |
| 5  | your first name and last name for the record.        |
| 6  | THE WITNESS: Matthew, M-a-t-t-h-e-w, John, J-o-h-n,  |
| 7  | McGuire, M-c-G-u-i-r-e.                              |
| 8  | EXAMINATION BY MR. ISAAC:                            |
| 9  | Q Thank you, Mr. McGuire. I'd like to begin by       |
| 10 | asking you some questions about your education       |
| 11 | and professional experience in public accounting     |
| 12 | and as it relates to money laundering in             |
| 13 | particular.  |
| 14 | MR. ISAAC: If I could ask the hearing registrar if   |
| 15 | we could bring up the document at tab 1, which       |
| 16 | is a copy of Mr. McGuire's CV, please.               |
| 17 | Q Mr. McGuire, do you see that recognize that        |
| 18 | document?  |
| 19 | A I do.  |
| 20 | Q Is that a copy of your CV?                         |
| 21 | A It is.   |
| 22 | MR. ISAAC: I'd ask that we please enter that as      |
| 23 | exhibit 392.   |
| 24 | THE COMMISSIONER: Very well.                         |

THE REGISTRAR: Exhibit 392.

| 1  |     | EXHIBIT 392: Curriculum Vitae of Matthew          |
|----|-----|---|
| 2  |     | McGuire   |
| 3  | MR. | ISAAC:  |
| 4  | Q   | And in terms of we can bring that document        |
| 5  |     | down now, Madam Hearing Registrar.                |
| 6  |     | In terms of your education, Mr. McGuire, you      |
| 7  |     | hold a master's degree in accounting from the     |
| 8  |     | University of Waterloo; is that right?            |
| 9  | А   | That's correct.                                   |
| 10 | Q   | And a diploma in investigative and forensic       |
| 11 |     | accounting from the University of Toronto?        |
| 12 | А   | Yes.  |
| 13 | Q   | You are certified in financial forensics as well  |
| 14 |     | as an AML specialist and you're also certified as |
| 15 |     | a cryptocurrency investigator. Is that all        |
| 16 |     | correct?  |
| 17 | А   | That's all correct.                               |
| 18 | Q   | And in connection with the University of Toronto  |
| 19 |     | you've also been a regular lecturer guest         |
| 20 |     | lecturer and instructor as well; is that correct? |
| 21 | А   | Yes. Since 2005 to just about present day of      |
| 22 |     | being a lecturer, and more recently an            |
| 23 |     | instructor.                                       |
| 24 | Q   | And in those capacities have those involved any   |
| 25 |     | AML anti-money laundering-related research or     |

| 1  |   | work?  |
|----|---|--|
| 2  | А | Yes, certainly. I've had the pleasure of         |
| 3  |   | supervising seven graduate research papers on    |
| 4  |   | the topic of anti-money laundering.              |
| 5  | Q | Are there any examples of those graduate papers  |
| 6  |   | that are particularly relevant to the subject    |
| 7  |   | matter of the report that we will be turning to  |
| 8  |   | shortly?   |
| 9  | А | Sure. I mean, some of them had to do with asset  |
| 10 |   | tracing and forensic accounting and money        |
| 11 |   | laundering and one in particular, the most       |
| 12 |   | recent, was with Julie Ferraz, who is with the   |
| 13 |   | OSC. And in doing her Masters of Accounting      |
| 14 |   | program she studied the security sector, and one |
| 15 |   | of the frustrations she came to in the course of |
| 16 |   | that research was also, you know, despite the    |
| 17 |   | indications that there was indeed money          |
| 18 |   | laundering through securities, there were very   |
| 19 |   | few convictions for her to point to on which to  |
| 20 |   | base her research.                               |
| 21 | Q | You're also a fellow of the Chartered            |
| 22 |   | Professional Accountants of Ontario; is that     |
| 23 |   | right?   |
| 24 | А | I am.  |

You've published in the Annual Review of

25

Q

| 1  |   | Insolvency Law on money laundering?               |
|----|---|---|
| 2  | А | I have.   |
| 3  | Q | And you've been certified by the Ontario Superior |
| 4  |   | Court on several occasions as an expert in        |
| 5  |   | forensic accounting and money laundering; is that |
| 6  |   | right?  |
| 7  | A | That is right.                                    |
| 8  | Q | I'd like to turn from your educational background |
| 9  |   | to your professional experience in public         |
| 10 |   | accounting. Would you please provide a            |
| 11 |   | description of your professional experience for   |
| 12 |   | the Commissioner.                                 |
| 13 | A | Yes, certainly. You know, as it relates to        |
| 14 |   | public accounting, I mean, I went through a very  |
| 15 |   | traditional route to become a CPA, which          |
| 16 |   | involves a certain number of hours of public      |
| 17 |   | accounting and professional accounting            |
| 18 |   | experience. I worked for a number of mid-sized    |
| 19 |   | firms before joining Deloitte in their financial  |
| 20 |   | advisory practice. I moved from there to be a     |
| 21 |   | partner at MNP, where I was the national          |
| 22 |   | anti-money laundering practice leader. I was      |
| 23 |   | the Ontario leader for forensics.                 |
| 24 |   | Before I joined them, I assisted them with        |
|    |   |   |

the development of their anti-money laundering

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| 1 | program. I conducted routine examinations of     |
|---|--|
| 2 | the program and its effectiveness which involved |
| 3 | surveys of every partner, regional managing      |
| 4 | partner, regarding the sorts of activities that  |
| 5 | were undertaken for two reasons. One for         |
| 6 | assessing money laundering risk, and the second  |
| 7 | for understanding for being able to develop a    |
| 8 | program that was centred around where those      |
| 9 | activities were occurring.                       |
|   |  |

Now at The AML Shop I act as an advisor to governments, to banks, to credit unions, to securities dealers and certainly, you know, the exposure I have there to professional accounting firms is as an advisor and sometimes as a reviewer. So working with, you know, somewhere around 10 or 12 public accounting firms, helping them get their programs up to specifications, conducting their training and then conducting routine reviews. And I repeat in each of those instances that survey exercise where you reach out to partners to try to isolate where the qualifying activities, the activities that are subject to legislation, exist to be able to design a program that finds them and understands their risks and attempts to deal with that risk.

2.1

2.4

| 1 | Also as an advisor I help some public accounting |
|---|--|
| 2 | firms with a peer review of their own            |
| 3 | effectiveness reviews.                           |
| Λ | The other activity that The AMI Shop             |

The other activity that The AML Shop
provides is outsourced AML services. So for
some credit unions, fintechs, other non-bank
financial institutions. And for one accounting
firm we conduct ongoing monitoring. So we
conduct transaction monitoring looking for risk
in transactions. And certainly in the case of
financial institutions our transaction
monitoring is scaled to look at professionals,
to look at gatekeepers in a more intensive way,
appreciating the risks that they pose.

And then, you know, while I was trained as you pointed out as a forensic accountant, I've worked in that capacity in the UK, in Canada and in various countries around the world. One of the roles that I held was -- most significant was being the partner responsible for the Toronto Police Services financial crime unit file in which I assisted in the investigation of financial crimes with a focus on money laundering and also had the opportunity to observe accountant involvement in money

| 1  |   | laundering and financial crime.                   |
|----|---|---|
| 2  |   | I suppose the other experience that I draw        |
| 3  |   | on in terms of professional experience related    |
| 4  |   | to public accounting was my time serving as       |
| 5  |   | chair on the CPA AML committee during which time  |
| 6  |   | I developed the together with my colleagues       |
| 7  |   | there the guide to comply with Canada's AML       |
| 8  |   | legislation. I did that while a partner at MNP.   |
| 9  | Q | Mr. McGuire, you mentioned there at the end that  |
| 10 |   | you were the chair of CPA Canada's anti-money     |
| 11 |   | laundering committee. What years were you the     |
| 12 |   | chair of that committee, please?                  |
| 13 | А | That was leading up to the four or five years     |
| 14 |   | leading up to 2015.                               |
| 15 | Q | Okay. And you also note in your CV that you       |
| 16 |   | served as a member on the Department of Finance's |
| 17 |   | private-public advisory committee on money        |
| 18 |   | laundering and terrorist financing; is that       |
| 19 |   | correct?  |
| 20 | А | That's correct. And there I was representing      |
| 21 |   | the accounting sector.                            |
| 22 | Q | Okay. And early on in your career you were an     |
| 23 |   | analyst with FINTRAC; is that correct?            |
| 24 | А | Briefly. I was a strategic and tactical           |
| 25 |   | intelligence analyst with FINTRAC.                |

| 1  | Q | Could you describe your role briefly as the chair |
|----|---|---|
| 2  |   | of CPA Canada's AML committee? What work was      |
| 3  |   | involved in that capacity?                        |
| 4  | А | Sure. You know, to begin with there were          |
| 5  |   | some at that time there were some fairly          |
| 6  |   | substantial changes being made to the             |
| 7  |   | legislation, and part of the mandate involved     |
| 8  |   | considering and commenting on those changes.      |
| 9  |   | You know, the role evolved both in terms of       |
| 10 |   | composition and need based on the number of       |
| 11 |   | inquiries that were by, you know, the Senate      |
| 12 |   | committees, House of Commons committees looking   |
| 13 |   | into accountant involvement in money laundering   |
| 14 |   | and the sorts of and money laundering/            |
| 15 |   | terrorist financing as that theme evolved.        |
| 16 |   | And the next real mandate was around              |
| 17 |   | awareness. You know, we recognized as a           |
| 18 |   | committee at that point early on that the         |
| 19 |   | suspicious transaction reporting figures were     |
| 20 |   | exceptionally low. And yet when we were hearing   |
| 21 |   | testimony in some of these committees and when    |
| 22 |   | we were looking at the documents put out by some  |
| 23 |   | of the super national bodies, it seemed to point  |
| 24 |   | to that somehow there was professional            |
| 25 |   | involvement in money laundering. And even         |

| 1  | speeches in the day, FINTRAC was quite clear    |
|----|---|
| 2  | that professional money laundering and money    |
| 3  | laundering is facilitators were a concern for   |
| 4  | them.   |
| 5  | And so that was you know, this is where         |
| 6  | the disconnect was. And so the committee the    |
| 7  | mandate's committee [sic] shifted very much     |
| 8  | towards public education. How do we let the     |
| 9  | accounting sector know what their obligations   |
| 10 | are. How do we make them wise to the sorts of   |
| 11 | things they should be looking for in the course |
| 12 | of their work.                                  |
| 13 | And still even, you know, while at MNP they     |
| 14 | were very active in mergers. And they could     |
| 15 | tell new accounting firms coming in that this   |
| 16 | just wasn't on their radar. That this was       |
| 17 | that anti-money laundering was not a            |
| 18 | significant seen as a significant risk in       |
| 19 | terms of enforcement to them.                   |
| 20 | And so that was the motivation before the       |
| 21 | guide, first of all, where, you know, together  |
| 22 | with my fellow committee members, Mike          |
| 23 | Ecclestone and Monica Stark, one a lawyer with  |
| 24 | extensive AML experience and the other had      |
| 25 | Monica Stark had come from an extensive         |

| 1  | background in public accounting at Deloitte and     |
|----|---|
| 2  | other firms in Alberta.                             |
| 3  | And so we developed the guide with a view to        |
| 4  | education, to create the awareness that there       |
| 5  | were these obligations and even to provide a        |
| 6  | little bit of a roadmap on how to comply.           |
| 7  | Q Sorry, Mr. McGuire. Perhaps we could look         |
| 8  | you've referred to this guide.                      |
| 9  | MR. ISAAC: Madam Hearing Officer, if we could bring |
| 10 | up the document at tab 3, please. If we could       |
| 11 | scroll down slightly.                               |
| 12 | Q Mr. McGuire, is this the report, the guide that   |
| 13 | you were referring to that you authored for the     |
| 14 | CPA Canada?   |
| 15 | A It absolutely is, yes.                            |
| 16 | MR. ISAAC: If we could please have that entered as  |
| 17 | the next exhibit. I believe exhibit 393.            |
| 18 | THE COMMISSIONER: Very well. 393.                   |
| 19 | THE REGISTRAR: 393.                                 |
| 20 | EXHIBIT 393: CPA Guide to Comply with Canada's      |
| 21 | Anti-Money Laundering (AML) Legislation prepared    |
| 22 | by MNP LLP  |
| 23 | MR. ISAAC:  |
| 24 | Q And, Mr. McGuire, you were explaining what the    |

purpose of this guide was. If you could just

| 1  |   | continue doing so, please.                       |
|----|---|--|
| 2  | А | Sure. It was you know, as an industry body       |
| 3  |   | the idea was how do we make it easier for our    |
| 4  |   | members to comply with the rules that are        |
| 5  |   | applicable. Even then we recognized it was       |
| 6  |   | difficult to determine what specific activities  |
| 7  |   | applied, and that's why we included a waterfall  |
| 8  |   | diagram in terms of the application of           |
| 9  |   | legislation a little later on in the report.     |
| 10 |   | But, you know, in terms of additional            |
| 11 |   | activities, you know, some of them were reactive |
| 12 |   | where FINTRAC, for instance, asked for our       |
| 13 |   | perspectives on risk-based approach              |
| 14 |   | documentation that they were looking to put out. |
| 15 |   | And so, you know, seeing further that there      |
| 16 |   | was a that if the numbers didn't that we         |
| 17 |   | didn't move the needle early on, and so we took  |
| 18 |   | additional measures. We put on a webinar where   |
| 19 |   | there were, if I recall right, around 4,000      |
| 20 |   | attendees. We put out articles and advisories.   |
| 21 |   | And so, you know, I think you can gather         |
| 22 |   | from that that our real focus was on awareness.  |
| 23 |   | And when we realized we still weren't moving the |
| 24 |   | needle, we invited FINTRAC to present to the     |

committee to understand what they were seeing

| 1  | and to see what we could do to work together         |
|----|--|
| 2  | cooperatively to enhance awareness in the            |
| 3  | sector, to enhance compliance because, you know,     |
| 4  | even the access to information statistics seemed     |
| 5  | to suggest at the time that we as a profession       |
| 6  | weren't doing a great job when we were examined      |
| 7  | about how we were complying. And so that was         |
| 8  | the nature of the committee's work at that time.     |
| 9  | MR. ISAAC: And I expect we will return to this guide |
| 10 | shortly, but for now if we could please go           |
| 11 | forward to page 6 of the document, please. I         |
| 12 | just want to just one sorry. Page 6 of               |
| 13 | the actual PDF, please.                              |
| 14 | I apologize. I'm using references of the             |
| 15 | electronic document. If we could I think             |
| 16 | we're on page 17 now. If we could go to              |
| 17 | page 6 of the electronic document. Thank you.        |
| 18 | Q I just you mentioned some names, Mr. McGuire,      |
| 19 | of others that were involved in reviewing and        |
| 20 | approving the guide. Were those the people that      |
| 21 | are listed here on this page?                        |
| 22 | A Sure. Those I mentioned. So Mike Ecclestone        |
| 23 | and Monica Stark both were huge contributors.        |
| 24 | As were I'd like to give credit at this point        |
| 25 | to too to the fact that, you know, it was the        |

| 1  |   | guide was written while I was at MNP and with    |
|----|---|--|
| 2  |   | the help of folks there, drawing on their public |
| 3  |   | accounting experience. And one of the fellows    |
| 4  |   | on my team then was a seven-year veteran         |
| 5  |   | compliance officer at FINTRAC, Paul Burak, so I  |
| 6  |   | want to give some credit there.                  |
| 7  |   | And also of course we have the direction of      |
| 8  |   | CPA Canada themselves, who were incredibly       |
| 9  |   | supportive with the development of the guide.    |
| 10 |   | Ms. Dawe, Ms. Shienfield, Ms. Stirling and       |
| 11 |   | Mr. Beal, who was then the VP of research        |
| 12 |   | guidance and support.                            |
| 13 | Q | This guide was published authored in 2014. Is    |
| 14 |   | this guide current with current AML legislation  |
| 15 |   | or guidance for risk?                            |
| 16 | А | No. I mean, there's been a fairly quick          |
| 17 |   | acceleration of the changes to the legislation   |
| 18 |   | since 2014 has been released of the risk-based   |
| 19 |   | guidance. There are new changes coming into      |
| 20 |   | force in 2021. There are changes to the ways     |
| 21 |   | that clients are meant to be identified. So      |
| 22 |   | fairly extensive changes since then.             |
| 23 |   | And certainly our understanding of risk          |
| 24 |   | relating to the sector has evolved substantially |
|    |   |  |

since that point.

Q

| 1  | Q Are you aware if there's been any update by CPA    |
|----|--|
| 2  | Canada since this guide was published in terms of    |
| 3  | sort of a followup?                                  |
| 4  | A I'm not aware of an update. There have been        |
| 5  | some articles published speaking to the changes      |
| 6  | in regulation since its publication, however.        |
| 7  | Q Thank you. I'd like to turn to the report that     |
| 8  | you prepared for this Commission.                    |
| 9  | MR. ISAAC: Perhaps we can pull this document down.   |
| 10 | If we could bring up the document, please,           |
| 11 | that's at tab 2 of the index.                        |
| 12 | Q Mr. McGuire, is this the report that you prepared  |
| 13 | for the Commission?                                  |
| 14 | A It is.   |
| 15 | MR. ISAAC: And I ask, please, that that be marked as |
| 16 | the next exhibit. I have that as exhibit 394.        |
| 17 | THE COMMISSIONER: Very well. 394.                    |
| 18 | THE REGISTRAR: 394.                                  |
| 19 | EXHIBIT 394: Report on Accountants, Money            |
| 20 | Laundering, and Anti-Money Laundering prepared       |
| 21 | by The AML Shop October 31, 2020, and                |
| 22 | updated December 31, 2020                            |
| 23 | MR. ISAAC: And if we could scroll down, please, to   |
| 24 | page 3 of the electronic document. Thank you.        |

Mr. McGuire, you note in the report here that it

| 1  |   | was prepared by you and Monika Cywinska. Would    |
|----|---|---|
| 2  |   | you please explain for the Commissioner who is    |
| 3  |   | Ms. Cywinska and what was her role in the         |
| 4  |   | report's preparation.                             |
| 5  | А | Monika Cywinska is one of the founders of The     |
| 6  |   | AML Shop. She's a seven-year veteran public       |
| 7  |   | accountant. And so her role was largely to do     |
| 8  |   | with standards and research related to the        |
| 9  |   | report.   |
| 10 | Q | Are all of the opinions, conclusions and we'll    |
| 11 |   | get to them, but the recommendations in the       |
| 12 |   | report and that you will testify today, are those |
| 13 |   | all your own and ones that you agree with?        |
| 14 | А | They are.   |
| 15 | Q | Okay. What are the three if we go down to the     |
| 16 |   | next I believe the next page, to paragraph 4      |
| 17 |   | of the body of the report. Could you just         |
| 18 |   | explain for the Commissioner what were the three  |
| 19 |   | core questions that you were asked to address in  |
| 20 |   | this report.                                      |
| 21 | А | Sure. Glad to. So the idea was first to           |
| 22 |   | understand how are accountants involved in money  |
| 23 |   | laundering domestically and internationally.      |
| 24 |   | And so largely a research exercise in terms of    |
| 25 |   | what could be determined based on authoritative   |

| 1  | sources. The next question beyond you know,      |
|----|--|
| 2  | beyond looking just at what is the extent of     |
| 3  | involvement. And when we talk about              |
| 4  | involvement, I just I don't mean just the        |
| 5  | participation in schemes but the ability to      |
| 6  | observe such schemes.                            |
| 7  | And then second how effective are current        |
| 8  | anti-money laundering regulations in related     |
| 9  | self-regulatory practices and addressing the     |
| 10 | threat caused by accountant involvement. So      |
| 11 | presuming there is a threat, what how            |
| 12 | effective are those measures. And largely we     |
| 13 | looked at the international methods to evaluate  |
| 14 | our regime against those international standards |
| 15 | of the Financial Action Task Force.              |
| 16 | And then the third question was really more      |
| 17 | of a recommendation section. So considering      |
| 18 | what we found in the first aspect and the second |
| 19 | aspect in terms of, you know, how big is the     |
| 20 | threat and how good are the controls. The third  |
| 21 | was what else could be done. How could we        |
| 22 | improve.   |
| 23 | And I suppose improvement isn't just about       |
| 24 | the control of money laundering itself but also  |
|    |  |

conformance with international standards that

| 1  |   | we're obligated to comply with, being a member   |
|----|---|--|
| 2  |   | of the FATF.                                     |
| 3  | Q | Thank you. And if we go forward to the page 6 of |
| 4  |   | your report, you describe in general terms the   |
| 5  |   | methodology that you used. And you note that in  |
| 6  |   | addition to the research that you conducted, you |
| 7  |   | also drew on your experience as an AML           |
| 8  |   | professional and accountant. Would you please    |
| 9  |   | explain and perhaps give an example for the      |
| 10 |   | Commissioner of how and where your experience    |
| 11 |   | forms the opinion on the questions that you      |
| 12 |   | addressed in the report, please.                 |
| 13 | А | Sure. So I've laid out a little bit that, you    |
| 14 |   | know, I've been involved in public accounting    |
| 15 |   | firms and involved extensively in accounting     |
| 16 |   | firm compliance with money laundering standards. |
| 17 |   | So when I talk about things like the extent to   |
| 18 |   | which accountants are involved in particular     |
| 19 |   | activities, I speak from the perspective of      |
| 20 |   | somebody that's conducted surveys and            |
| 21 |   | effectiveness reviews against the standards to   |
| 22 |   | observe whether those things are happening.      |
| 23 |   | Sometimes I bring in the perspective of, you     |
| 24 |   | know, the observation of those transactions      |
| 25 |   | through the course of outsourced transaction     |

| 1  |   | monitoring for the financial institutions.        |
|----|---|---|
| 2  |   | And certainly in the third part of the            |
| 3  |   | report, you know, my recommendations are          |
| 4  |   | informed by my experience in the field and        |
| 5  |   | what I think I've seen work elsewhere. What we    |
| 6  |   | didn't talk about in my experience is the extent  |
| 7  |   | to which I've been involved in assisting other    |
| 8  |   | country regimes towards compliance. And, you      |
| 9  |   | know, that's also helped form my experience in    |
| 10 |   | terms of practices that have worked and not in    |
| 11 |   | other jurisdictions like Guyana, like the         |
| 12 |   | Marshall Islands, Panama and such.                |
| 13 | Q | Thank you. You note at paragraph 11 of your       |
| 14 |   | report that you have adopted a broad definition   |
| 15 |   | of "accountant" and "accounting services" based   |
| 16 |   | on the services offered as opposed to by          |
| 17 |   | professional designation. Why did you adopt that  |
| 18 |   | broad definition, and what is the significance of |
| 19 |   | that as we go through the balance of your         |
| 20 |   | evidence today?                                   |
| 21 | А | Thanks for the question. You know, the point      |
| 22 |   | first was that we were looking largely at how do  |
| 23 |   | we adhere to international standards, and,        |
| 24 |   | second, how do we respond to the risk posed by    |
| 25 |   | accountants and accounting services. And one of   |

| 1  |   | the reasons the recommendation is in place and    |
|----|---|---|
| 2  |   | the recommendations related to accountants are    |
| 3  |   | in place at all for the FATF is their             |
| 4  |   | recognition that accountants and accounting       |
| 5  |   | services can be exploited for money laundering.   |
| 6  |   | And there's a few reasons they can be exploited.  |
| 7  |   | It's because of their skill set, for one, and     |
| 8  |   | for two because of the reputation that they       |
| 9  |   | bring to the story.                               |
| 10 |   | And so I adopt their definition because           |
| 11 |   | regardless of what designation you hold, if you   |
| 12 |   | have these skills wherever gained and you         |
| 13 |   | perform these services or help somebody to        |
| 14 |   | prepare for performing these services, you pose   |
| 15 |   | the same threat as somebody who's designated.     |
| 16 |   | And so I adopt this wide view that                |
| 17 |   | internationally has been accepted is that the     |
| 18 |   | scope of services that fall under this idea of    |
| 19 |   | accounting services, both by designated folks     |
| 20 |   | and not, because of the risk that                 |
| 21 |   | internationally they seem to be they seem to      |
| 22 |   | pose.   |
| 23 | Q | And I expect we will unpack this further,         |
| 24 |   | Mr. McGuire, but it would be helpful perhaps just |
|    |   |   |

to briefly explain the -- in terms of the way in

| 1  |   | which the profession is regulated. You've         |
|----|---|---|
| 2  |   | adopted a broad definition at the outset of your  |
| 3  |   | report, but is the both the way that the          |
| 4  |   | PCMLTFA is structured as well as the way in which |
| 5  |   | accounting is regulated provincially, is a        |
| 6  |   | narrower definition something we will see that's  |
| 7  |   | used in each of those contexts?                   |
| 8  | А | Yeah, that is largely the point. I mean, in my    |
| 9  |   | view expressed in the report, you know, the       |
| 10 |   | definition the PCMLTFA adopts for accountant and  |
| 11 |   | accounting services is far too narrow compared    |
| 12 |   | to the international standard. And it makes it    |
| 13 |   | difficult from jurisdiction to jurisdiction       |
| 14 |   | within Canada, province by province, to           |
| 15 |   | understand what might fall under that             |
| 16 |   | definition. You know, we'll get into, I           |
| 17 |   | suppose, the very specific elements of that       |
| 18 |   | definition. But as I say, it doesn't matter to    |
| 19 |   | me so much that somebody is regulated or not      |
| 20 |   | from the perspective of this definition of risk.  |
| 21 |   | Later it becomes quite important. Later when we   |
| 22 |   | talk about mitigation, we talk about dealing      |
| 23 |   | with the threat that somebody performing these    |
| 24 |   | services posed, then you can think more about     |
| 25 |   | regulation in term of is there a professional     |

| 1  |   | body where there's oversight that might help     |
|----|---|--|
| 2  |   | limit the risk.                                  |
| 3  |   | In Canada that's a mixed story. There's a        |
| 4  |   | very good story when we talk about province to   |
| 5  |   | province how much oversight there is from a fit  |
| 6  |   | and proper purpose. Who is admitted to the       |
| 7  |   | membership in the first place. But as, you       |
| 8  |   | know, it's pointed out in some of the other      |
| 9  |   | materials, largely the provincial bodies defer   |
| 10 |   | to FINTRAC as the primary regulator. And so      |
| 11 |   | when we get into the idea about, you know, do    |
| 12 |   | those does the presence as a regulation of       |
| 13 |   | those members help to regulate for money         |
| 14 |   | laundering, it's a mixed story.                  |
| 15 | Q | Going on in your report at the top of page 7 you |
| 16 |   | describe that you have adopted for the           |
| 17 |   | purposes of discussing money laundering in your  |
| 18 |   | report, you've adopted the Criminal Code         |
| 19 |   | definition under section 462.31(1), which        |
| 20 |   | includes reference to proceeds from a designated |
| 21 |   | offence.   |
| 22 |   | Just pausing there on the designated offence     |
| 23 |   | question. Can you explain and illustrate perhaps |
| 24 |   | how designated offences might manifest or arise  |
|    |   |  |

in terms of an accountant's potential

| 1  |   | involvement?                                     |
|----|---|--|
| 2  | А | Yeah. Thanks for that. I like to point out       |
| 3  |   | when I'm conducting money laundering training    |
| 4  |   | for any type of group about how broad the        |
| 5  |   | Canadian definition is from this perspective;    |
| 6  |   | right? That, you know, if you know it's the      |
| 7  |   | proceeds of crime and you buy a ham sandwich,    |
| 8  |   | the ham sandwich might be the proceeds of crime. |
| 9  |   | And so from an accounting perspective the        |
| 10 |   | question becomes, you know, where would you see  |
| 11 |   | it. And it could be self-laundering where you    |
| 12 |   | see laundering the proceeds of crime, where the  |
| 13 |   | accountant himself commits a fraud or a theft    |
| 14 |   | and then deals with that those proceeds. We      |
| 15 |   | are talking about money laundering.              |
| 16 |   | Now, you know, your mind might go to the         |
| 17 |   | idea that well, can we ask somebody like that to |
| 18 |   | report on themselves. And that's where the       |
| 19 |   | recommendations later come into the idea that,   |
| 20 |   | you know, the oversight function requires great  |
| 21 |   | cooperation between a self-regulatory            |
| 22 |   | organization and the financial intelligence unit |
| 23 |   | to know who might be involved in these           |
| 24 |   | activities. Two-way communication channel.       |

You might also think about laundering --

| 1  |   | aside from self-laundering, which might be a     |
|----|---|--|
| 2  |   | fraud or a theft, you might think about          |
| 3  |   | unknowingly committing a fraud; right? So let's  |
| 4  |   | say a client comes to you and asks for advice on |
| 5  |   | the development of a tax structure that's        |
| 6  |   | ostensibly to be ostensibly for tax              |
| 7  |   | efficiency purposes when in fact they're looking |
| 8  |   | to move proceeds of crime overseas. I mean,      |
| 9  |   | that's a second category of designated offence   |
| 10 |   | you might think about.                           |
| 11 |   | And then there's knowingly, there's              |
| 12 |   | complicit; right. So let's say you are the       |
| 13 |   | accountant for a firm that is commingling, that  |
| 14 |   | has both legitimate and illegitimate proceeds.   |
| 15 |   | Well, then one of your jobs is that fraud or the |
| 16 |   | laundering of the explicit laundering of         |
| 17 |   | funds is far more about making the financial     |
| 18 |   | statements believable for tax purposes to        |
| 19 |   | maintain margins at particular levels.           |
| 20 |   | So I just I like to relate the idea of a         |
| 21 |   | designated offence to both. The observation,     |
| 22 |   | the participation and the exploitation of the    |
| 23 |   | rules for oneself.                               |
| 24 | Q | And if we turn to the section that begins        |

immediately employee here, section 6 of your

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| 1  |   | report, "Accountant Involvement in Money          |
|----|---|---|
| 2  |   | Laundering." And can you just briefly, broadly    |
| 3  |   | describe what you look at in this portion of your |
| 4  |   | report, please.                                   |
| 5  | A | Sure. So, you know, I was looking for             |
| 6  |   | authoritative sources. I'm looking for sources    |
| 7  |   | of information from trustworthy sources that      |
| 8  |   | indicate whether accountants have a view into     |
| 9  |   | money laundering and whether they participate in  |
| 10 |   | money laundering.                                 |
| 11 |   | So, you know, you have to start that              |
| 12 |   | exercise with the idea of, you know, is money     |
| 13 |   | laundering happening. And so I think, you know,   |
| 14 |   | when I look at the articles published in the      |
| 15 |   | magazine of CPA Canada, when I look at many of    |
| 16 |   | the sources referenced in the tabs produced and   |
| 17 |   | the international research and the domestic       |
| 18 |   | research, I don't think it's hard to get to the   |
| 19 |   | conclusion that there is a significant volume of  |
| 20 |   | money laundering happening.                       |
| 21 |   | And, you know, whether you adopt something        |
| 22 |   | north of 40 billion or not, it's a large number.  |
| 23 |   | And so let's, you know, start with, if the        |
| 24 |   | numbers are that large then and accountants must  |
| 25 |   | be involved in most sectors of the economy as     |

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| 1 | scribes, as decision-makers, that it's being   |
|---|--|
| 2 | observed. And the research went a little       |
| 3 | further than that back in 1996 and 1997. What  |
| 4 | they started to observe, you know, six and     |
| 5 | seven years after the initiation of more       |
| 6 | stringent anti-money laundering measures was   |
| 7 | that we had created an environment where       |
| 8 | criminals needed guides to get through the new |
| 9 | system of money laundering.                    |
|   |  |

The predictions that have largely seemed to be borne out is that the more complicated the money laundering rules have become, the more professionals have necessarily become involved in the facilitation of money laundering, both wittingly and not. That's -- you know, that was the case when we look at FATF papers from 1997 when the group of experts, including Canada, came to the table and said, you know, as money laundering regulations have increased, the criminals place increasing reliance on professional money launderers. And the experts, so those participating, those at the table, reported a significant number of cases involving lawyers, accountants, financial advisors, notaries, secretarial companies and other

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fiduciaries that are employed specifically for that purpose.

And so that trend continued. You know, when you move towards the Egmont Group, so the group of financial intelligence units from around the world, they found the same thing when they published their what I think is a seminal paper that, you know, talked about five methods of money laundering, and one of the those five methods is the misuse of legitimate businesses which requires the use necessarily of accountants and lawyers. And maybe not, again, wittingly and maybe not as facilitators, but even as observers. And so, you know, the research continued. We looked at research by He in 2006 where he looked at the exploitation of money laundering.

So internationally we're seeing the vibe, the theme, the continued reference to cases where accountants and lawyers observe or are involved in money laundering. And then one of my favourite papers from 2008 Frédéric Compin, he did a really wonderful job of how to think about the way that an accountant is involved in money laundering and, you know, he developed a

| 1  |   | vertical and a hierarchical approach. I use      |
|----|---|--|
| 2  |   | this to teach from sorry.                        |
| 3  | Q | No, I was about to say you mentioned the Compin  |
| 4  |   | models. And I believe you've reproduced diagrams |
| 5  |   | of each of those, and I think it may be helpful  |
| 6  |   | to look at those and ask you to please explain   |
| 7  |   | those models perhaps with reference.             |
| 8  |   | So if we go down to page 8 of the paper. At      |
| 9  |   | the bottom of the diagram I think that's the     |
| 10 |   | there are two of these you've described two      |
| 11 |   | models. I believe this is the vertical or        |
| 12 |   | hierarchical approach.                           |
| 13 |   | Would you please explain what this diagram       |
| 14 |   | represents and what its significance is, please. |
| 15 | A | Sure. It's just about how we think about how     |
| 16 |   | accounting skills are necessary in the course of |
| 17 |   | organized crime and unorganized crime; right?    |
| 18 |   | So you think about if you start from the         |
| 19 |   | beginning, you think about unorganized crime and |
| 20 |   | you're thinking about simple acts, isolated acts |
| 21 |   | of, you know, stealing goods, for example.       |
| 22 |   | Well, you know, in those small thefts and those  |
| 23 |   | minor crimes, there's not much need for an       |
| 24 |   | accountant's services; right? I mean, there's    |
| 25 |   | no capital accumulation. There's, you know       |

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| 1  | you're certainly not paying taxes on that money. |
|----|--|
| 2  | So, you know, there it's not as necessary. When  |
| 3  | you think about organized crime, when you move   |
| 4  | up that one level and say, listen there's a      |
| 5  | collection of people conducting crime and        |
| 6  | there's more capital accumulation, there's more  |
| 7  | money to move, and there's more need for         |
| 8  | intermediaries and likely more need for          |
| 9  | commingling, the use of legitimate businesses to |
| 10 | hide the revenues among legitimate revenues and  |
| 11 | to maintain tax compliance so as to not to       |
| 12 | attract the attention of revenue agencies.       |
| 13 | And you move up one more level in his scale      |

And you move up one more level in his scale and you talk about well, if we have organized crimes networks and transnational organized crime networks, now we have a very significant problem that requires accountants and lawyers and bankers to solve, which is huge capital accumulation, the need to transfer money to other jurisdictions to repatriate the money, to put it out of -- further out of the reach of law enforcement. Then there's a significant need for accounting services. The understanding of financial systems, the way corporations interact across borders. And from a tax compliance

| 1   |   | perspective it's absolutely necessary to be able |
|-----|---|--|
| 2   |   | to understand how those things interact because, |
| 3   |   | you know, tax compliance is one of the weak      |
| 4   |   | spots of any organized crime network.            |
| 5   | Q | Sorry, what do you mean by that? Why is that a   |
| 6   |   | vulnerability for network tax compliance         |
| 7   |   | questions?                                       |
| 8   | А | Because, you know, the point of a good money     |
| 9   |   | laundering scheme is to be have the absence      |
| 10  |   | of the most oversight. So less scrutiny paid to  |
| 11  |   | the activities and the identities of the people  |
| 12  |   | involved and the ultimate sources and use of the |
| 13  |   | money. And so the moment you fall afoul of tax   |
| 14  |   | rules, you attract that scrutiny and those       |
| 15  |   | audits which can uncover identities and purposes |
| 16  |   | and means. And, you know, the tax powers are     |
| 17  |   | quite significant when it comes to the power to  |
| 18  |   | seize and gather information.                    |
| 19  | Q | And if we go down to the next the top of the     |
| 20  |   | next page, you set out the other approach, the   |
| 21  |   | other the horizontal model. Would you please     |
| 22  |   | explain what this model illustrates and what its |
| 23  |   | significance is.                                 |
| 24  | А | Sure, the idea in that research was to say, you  |
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know, how does accountant involvement change as

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we move across the spectrum from, you know, the sort of acts that are entirely illegal to those that are legal with illegal touches. And it was -- it's illustrative from the point of, you know, if you think about on that far end of the spectrum with legal -- with illegal touches, so, you know, accounting manipulation.

I'm going to talk in a minute about the discipline cases that we see in BC and Ontario related to CPAs, but this is a great example where, you know, accountants have the knowledge to manipulate financial statement for a few purposes. It might be manipulating them for the sake of inflating a stock price, but equally it might be manipulating them to conceal laundering that's happening. But the manipulation, fraudulent financial statements, create the proceeds of crime which accountants can deal with or can observe. And so it's important to think about it from that perspective.

And as you move to the other side of the spectrum, you start thinking about what about things like corruption or -- for example, right, with kickbacks and schemes. And there again accounting knowledge is needed to conceal the

| 1  |   | nature of these contracts and payments.          |
|----|---|--|
| 2  |   | You move to the left to things that are          |
| 3  |   | completely illegal, like drug trafficking and    |
| 4  |   | smuggling. And so you might need fake or         |
| 5  |   | fictitious invoices, you might need front        |
| 6  |   | companies. But you can see that, you know, when  |
| 7  |   | we think about it from unorganized to organized  |
| 8  |   | that there is an increasing level of accountant  |
| 9  |   | knowledge necessary to facilitate. When we       |
| 10 |   | think about it from totally illegal to illegal   |
| 11 |   | there's another spectrum of where the services   |
| 12 |   | of an accountant or a lawyer or other            |
| 13 |   | professional is needed in terms of setting up    |
| 14 |   | and basic bookkeeping and, you know, even more   |
| 15 |   | than one set of books, for instance.             |
| 16 |   | And need not I wouldn't mind emphasizing         |
| 17 |   | that this need not be a professional accountant. |
| 18 |   | That anyone that provides those services that    |
| 19 |   | has that training could perform ostensibly these |
| 20 |   | functions.                                       |
| 21 | Q | Are there certain services that are offered by   |
| 22 |   | accountants in that broad definition that have   |
| 23 |   | been identified as particularly susceptible to   |
| 24 |   | money laundering?                                |
| 25 | А | Sure. So the risk-based approach. The            |

| 1  | Financial Action Task Force, as I say, the      |
|----|---|
| 2  | international standard-setting body, looked at  |
| 3  | worldwide what cases do we see of accountants   |
| 4  | involved in money laundering and what are the   |
| 5  | services that are most vulnerable to exploit.   |
| 6  | And they talked about financial and tax         |
| 7  | advice; right? So criminals may pose as         |
| 8  | individuals seeking financial overtax advice,   |
| 9  | and that's well within our domain. And this     |
| 10 | is you know, I wouldn't mind pointing out now   |
| 11 | that this is one of the weaknesses in the way   |
| 12 | that our legislation is structured.             |
| 13 | When you look at the Proceeds of Crime          |
| 14 | (Money Laundering) and Terrorist Financing Act, |
| 15 | it says it specifically excludes advice from    |
| 16 | the definition of "triggering activities."      |
| 17 | Advice is you know, any number of pieces of     |
| 18 | FINTRAC guidance tell you that accountants      |
| 19 | providing advice towards qualifying activities  |
| 20 | does not constitute a qualifying activity. That |
| 21 | only instructions, only specific instructions   |
| 22 | count. That's a very frustrating thing, you     |
| 23 | know, from the perspective of how we know this  |
| 24 | to be an international typology.                |

And then company and trust formation, well,

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even -- you know, the point is criminals are trying to make it harder to follow the trail.

When -- you know, think about the example of how many Ponzi schemes try to move money to Germany, one of the reasons they have to do -- they like to do that is that Germany doesn't recognize a Mareva Injunction; right? You have to re-argue the whole thing. So, you know, if you start up setting up corporations in jurisdictions that are less friendly towards seizures, then you've got a great vehicle to start distancing the money, making it harder to chase, harder to seize.

And so it may not be that accountants particularly are forming companies in trust. I understand that, you know, from some of the submissions that -- and generally that that's the practice of law that they can provide all the advice and all of the setups towards those company and trust formations. And I'd say in my experience tax practitioners perform these roles from a legitimate perspective regularly. It's a routine part of their job. Tax training and the organization of affairs for tax efficiency is -- it was part of my basic CPA training.

1 Thank you. I should just -- it may be helpful Q 2 just to note that the -- a lot of the services 3 that you're identifying are -- they're 4 referenced. They're listed at paragraph 19 of 5 your report and you were discussing company and trust formation. And if you could continue on 6 7 going through that list, Mr. McGuire, and also identifying the extent -- as you have been for 8 9 those first two, the extent to which you 10 understand that those services are actually provided by accountants in Canada and where that 11 12 associated money laundering risk may arise. But 13 please go on. 14 Sure. You know, buying or selling property Α 15 certainly -- you know, unless an accountant is a 16 real estate agent, they may not directly be the 17 buyer -- or the agent or broker. But, you know, 18 considering the extent to which accountants can 19 be the financial money managers for family 20 trusts, for instance, that the occurrence of 2.1 buying or selling property might happen. You 22 know, in some of the cases where I've conducted 23 investigations for law enforcement and even in 2.4 defence cases related to professionals, you 25 know, it's -- buying or selling property seems

| 1  |   | to be a mainstay of any of the money laundering  |
|----|---|--|
| 2  |   | schemes that I've observed. Admittedly in the    |
| 3  |   | surveys I've conducted of the public accounting  |
| 4  |   | firms that I've assisted with compliance, I      |
| 5  |   | haven't seen a huge extent of property           |
| 6  |   | transactions represented by those represented    |
| 7  |   | by partners.                                     |
| 8  |   | Performing financial transactions is far         |
| 9  |   | more common and the smaller the firm is, in my   |
| 10 |   | experience, the more likely it is that an        |
| 11 |   | accountant is trusted by an individual to        |
| 12 |   | perform financial transactions on their behalf,  |
| 13 |   | to open bank accounts or to assist in references |
| 14 |   | to opening bank accounts, to assist with making  |
| 15 |   | payments, to make out cheques. In preparing the  |
| 16 |   | documentation related to those things.           |
| 17 |   | The following three on page sorry.               |
| 18 | Q | No, please go on. I was about to ask whether or  |
| 19 |   | not accounting firms have trust accounts. If you |
| 20 |   | could address that.                              |
| 21 | А | I don't mind at all. You know, so I have         |
| 22 |   | observed the use of trust accounts. You know,    |
| 23 |   | they aren't the trust accounts that, you know, a |
| 24 |   | lawyer might use. They're not the same concept   |
| 25 |   | altogether, but they do hold trust accounts and  |

| 1  | will make payments to and from those trust       |
|----|--|
| 2  | accounts various reasons.                        |
| 3  | I've already mentioned gaining introductions     |
| 4  | to financial institutions in terms of accounts   |
| 5  | and to other accountants as well. The            |
| 6  | maintenance of records is clearly a prime        |
| 7  | function of accountants.                         |
| 8  | And then. You know, the final activity that      |
| 9  | the FATF says is a risk is the preparation,      |
| 10 | review and auditing of financial statements.     |
| 11 | I'm less convinced that professional accountants |
| 12 | are complicit in the preparation of assurance    |
| 13 | statements for those they know are laundering    |
| 14 | money. That's not what I think anybody is        |
| 15 | trying to point out here. I think the point is   |
| 16 | that the preparation. Review and audit of        |
| 17 | finance statements is an opportunity for         |
| 18 | accountants to observe potential financial crime |
| 19 | and money laundering. You need not look much     |
| 20 | further than Wirecard as an example of that sort |
| 21 | of scheme.                                       |
| 22 | So this dovetails nicely into the next           |
| 23 | paragraph of the report at 20 where we talk      |
| 24 | about, you know, what are the most prevalent     |
| 25 | international schemes that the FATF has          |

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observed, which is, you know, the exploitation
of the opacity of beneficial ownership; right?

So, you know, the FATF believes that it is most
common that individuals try to take advantage of
the lack of beneficial ownership information
available to the public in a detailed way, in a
consistent way and in a verified way.

The second most common scheme cited by the FATF and by the US Department of State is trade-based money laundering, which seems to be a significant risk in Canada. And Professor Zdanowicz suggested at one point that 80 percent of the money laundered between Canada and the US was attributable to trade-based money laundering.

And so you think about the idea of under or overpricing goods to cross borders to be able to move value. And you can't help but expect that someone with accounting skills is helping to facilitate that scheme from the perspective of first, you know, a tax compliance at a base, customs compliance second, and then, third, maintaining a set of records that appears legitimate enough to not attract scrutiny by anyone.

| 1   |   | And then finally, alternative payment             |
|-----|---|---|
| 2   |   | methods. Well, the point about training as an     |
| 3   |   | accountant is understanding the financial system  |
| 4   |   | and the movement of money, and so the use of      |
| 5   |   | alternate payment systems comes second nature to  |
| 6   |   | an accountant.                                    |
| 7   |   | And so you think about all those things           |
| 8   |   | together and that's where we see the              |
| 9   |   | international spectrum of the view of the risk    |
| 10  |   | of accountants' involvement in view of money      |
| 11  |   | laundering.                                       |
| 12  | Q | And if you could clarify and perhaps explain a    |
| 13  |   | little bit further two components. One is you     |
| 14  |   | mentioned the distinction between the advising on |
| 15  |   | these various areas as opposed to necessarily     |
| 16  |   | being the one to carry them out. I think the      |
| 17  |   | example you used was in terms of company          |
| 18  |   | formation, what the significance of that might    |
| 19  |   | be. And the other is that the other               |
| 20  |   | distinction that I think you referenced was that  |
| 21  |   | this may not always be a matter of involvement on |
| 22  |   | the part of the accountant but observing risk and |
| 23  |   | suspicion.  |
| 24  |   | If you could just explain that those two          |
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aspects a little bit more, Mr. McGuire.

25

| 1  | А | Sure. You know, far less often does an            |
|----|---|---|
| 2  |   | accountant provide specific instructions for a    |
| 3  |   | particular financial activity than does an        |
| 4  |   | accountant provide advice about how to structure  |
| 5  |   | affairs in a tax efficient manner. For            |
| 6  |   | instance, the advice is far more common an        |
| 7  |   | activity and, in my view, just as threatening     |
| 8  |   | from a money laundering perspective as            |
| 9  |   | conducting the instructions themselves.           |
| 10 |   | You know, in fact, if I saw an accountant         |
| 11 |   | conducting transactions through one of the        |
| 12 |   | accounts we monitor for a client, it would        |
| 13 |   | arouse far more suspicion than if the client      |
| 14 |   | conducted it themselves and I wouldn't know       |
| 15 |   | about the advice behind the scenes, for           |
| 16 |   | instance. And so, as I say, only the actual       |
| 17 |   | instructions themselves are covered by Canadian   |
| 18 |   | law.  |
| 19 |   | Sorry, Mr. Isaac. Your second point was           |
| 20 | Q | The second question was about the distinction or  |
| 21 |   | the significance of not necessarily being the one |
| 22 |   | knowingly carrying out these activities but       |
| 23 |   | observing the observing suspicious                |
| 24 |   | circumstances for each of those. And I think one  |
| 25 |   | of the examples you had used was the risk or the  |

| 1  |   | suspicions that might arise in an audit context.  |
|----|---|---|
| 2  |   | If you could explain that a little bit further,   |
| 3  |   | please.   |
| 4  | А | Sure. You know, that's you know, it's             |
| 5  |   | generally accepted that financial intelligence    |
| 6  |   | is the way to defeat money laundering and so      |
| 7  |   | accountants have a front seat to these            |
| 8  |   | transactions. We see them and we have the         |
| 9  |   | opportunity to enrich the financial intelligence  |
| 10 |   | database with that information. And in the        |
| 11 |   | absence of broad coverage or suspicious           |
| 12 |   | transaction reports we're depriving our           |
| 13 |   | financial intelligence units of that data, that   |
| 14 |   | missing piece of the puzzle.                      |
| 15 | Q | Thank you. And if we go on the next section       |
| 16 |   | beginning at paragraph 21, is you refer to        |
| 17 |   | Canada and money laundering, and you provide some |
| 18 |   | of those global estimates. And fair to say I      |
| 19 |   | think you'd indicated that you're describing the  |
| 20 |   | reason the significance of this is that if the    |
| 21 |   | scope of money laundering occurring is that       |
| 22 |   | large, then accountants are more likely to be     |
| 23 |   | involved than not given just the scale of         |
| 24 |   | suspected money laundering. Is that accurate in   |
| 25 |   | terms of the significance of this?                |

| 1  | А | That is accurate. And even, you know, the CPA    |
|----|---|--|
| 2  |   | Canada articles on the subject are quite clear   |
| 3  |   | that, you know, Canada is a wonderful            |
| 4  |   | environment for money laundering because of its  |
| 5  |   | reputation and because of the lax                |
| 6  |   | prosecutions or the limited prosecutions over    |
| 7  |   | time. I don't think there's any dispute that it  |
| 8  |   | is that the number is a significant number.      |
| 9  |   | And I draw you know, I start to you              |
| 10 |   | start to infer that, let's say, if it is a large |
| 11 |   | number, then it must be you must imagine that    |
| 12 |   | an accountant must observe it. And if you think  |
| 13 |   | about the vertical and the horizontal approach,  |
| 14 |   | there are a number of ways that an accountant    |
| 15 |   | must and is likely involved in those sorts of    |
| 16 |   | activities.                                      |
| 17 |   | And so the next question is is there direct      |
| 18 |   | empirical or anecdotal evidence that accountants |
| 19 |   | are indeed involved or have a view on the money  |
| 20 |   | that is laundered in Canada. And so you start    |
| 21 |   | by where I started was, you know, let's think    |
| 22 |   | about well, what are the convictions where       |
| 23 |   | are the convictions and what do they tell us.    |
| 24 |   | And so, you know, as Global News Andrew Russell  |
| 25 |   | has pointed out that the rates of conviction are |

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quite low. We've seen very little in the way of convictions and significant loss of liberty or cash by money launderers.

And there's many references to how, you know, part of that problem might have been the difficulty in the *Criminal Code* definition that -- where recklessness was recently added to -- you know, added to the point where an individual who was a professional money launderer might not -- it might be hard to prove that they had specific knowledge of the proceeds being the proceeds of crime to be able to obtain a conviction.

And, you know, even while at CPA Canada we were hearing from the RCMP and around the table at the advisory committee to finance that professional money launderers were the biggest threat being pursued by the RCMP. That was repeated by Superintendent Payne at his speech on March 4th in front an investment industry committee. You know, so you start to look at --you start to hear and read about these things and that leads to, you know, a look at well, what do the official Government of Canada documents say about it.

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| And the RCMP fortunately through the             |
|--|
| Criminal Intelligence Service put out a recent   |
| report that talked about how their particular    |
| concern are organized crime groups and criminals |
| who launder funds by engaging professional money |
| launderers who offer their services for a fee,   |
| which include accountants, bankers and lawyers.  |
| And so, you know, you read that from the RCMP    |
| and you might think, well, they're in a good     |
| position to see that. So that was where my next  |
| piece of the puzzle came in.                     |
|  |

And then, you know, FINTRAC's research has pointed out similarly, you know, their 2015 paper, that they've seen professional money launderers occupy positions such as accountants, bankers and lawyers, providing a veneer of legitimacy. The standing committee on finance, we heard from Professor Tupman about his view that there's accountant involvement. Canada's risk assessment in 2015 talked about how the risk of the accounting sector was medium. Where the large number of practitioners with specialized knowledge and expertise that may be vulnerable to being exploited wittingly or unwittingly.

| 1  | I point out there that still, you know, you      |
|----|--|
| 2  | can point to you look at the RCMP's CISC         |
| 3  | paper, you look at the FINTRAC paper. Still we   |
| 4  | have the frustrating position of not having them |
| 5  | reference specific cases or even narratives of   |
| 6  | cases that seem to back up those statements.     |
| 7  | And so I looked back to Steven Schneider's paper |
| 8  | where he, you know, looked at successfully       |
| 9  | prosecuted accounting cases or successfully      |
| 10 | prosecuted money laundering cases between 1993   |
| 11 | and 1998. You have to understand too his sample  |
| 12 | was before the application of these anti-money   |
| 13 | laundering rules, so there's a bias to the       |
| 14 | sample compared to not a bias but rather a       |
| 15 | limitation to his sample because the structure   |
| 16 | was not the same as it is today.                 |
| 17 | But, you know, one of the things that he         |
| 18 | said that really resounded with me was that,     |
| 19 | like a legitimate company, criminal              |
| 20 | entrepreneurs must keep track of their revenues  |
| 21 | and expenses as well as their assets and         |
| 22 | liabilities. And ideally this job is best        |
| 23 | carried out by somebody possessing accounting or |
| 24 | bookkeeping skills. This really fits well        |
| 25 | within the research of Frédéric Compin; right?   |

| 1        | It's a necessary skill. And he found that, you  |
|----------|---|
| 2        | know, in just about 10 percent of the cases   |
| 3        | there was an involvement of an accountant,  |
| 4        | either wittingly or not, and in half of the   |
| 5        | cases there was involvement of a lawyer.  |
| 6        | So, you know, that's to suggest that even   |
| 7        | before there was a significant anti-money   |
| 8        | laundering regime in Canada that there was that   |
| 9        | level of professional involvement was indicative  |
| 10       | to me that there must be that there was   |
| 11       | likely more once the worldwide system became  |
| 12       | more complicated in terms of its anti-money   |
| 13       | laundering systems and controls.  |
| 14       | So the next place you look, that I looked   |
| 15       | was to say well, you know, are there published  |
| 16       | criminal cases that help provide some insights  |
| 17       | into whether or not accountants are being used  |
| 18       |   |
|          | to launder money. And I've listed they're   |
| 19       | to launder money. And I've listed they're anecdotes at best; right? I mean, the first   |
| 19<br>20 | -   |
|          | anecdotes at best; right? I mean, the first   |
| 20       | anecdotes at best; right? I mean, the first thing is that the research methodology was a  |
| 20<br>21 | anecdotes at best; right? I mean, the first thing is that the research methodology was a simple one. It was looking for the combination |

CanLII. Limitations are that, you know, there

| 1   |   | aren't that many prosecutions. And so, you        |
|-----|---|---|
| 2   |   | know, is it a representative sample? Probably     |
| 3   |   | not. Is it indicative of all accountant           |
| 4   |   | involvement in money laundering? Absolutely       |
| 5   |   | not.  |
| 6   |   | But there are some anecdotes of indications       |
| 7   |   | of what it does look like when it does happen.    |
| 8   |   | We see in some of those cases the role of, you    |
| 9   |   | know, just a bookkeeper scribe to                 |
| 10  |   | self-laundering to complicit laundering           |
| 11  |   | throughout those cases.                           |
| 12  | Q | And, Mr. McGuire, just so we have connecting      |
| 13  |   | with what you're testifying to now in terms of    |
| 14  |   | your report. I believe we've gotten to            |
| 15  |   | paragraph 30 where you list and provide a very    |
| 16  |   | brief description of ten reported cases, criminal |
| 17  |   | cases that were available at least on CanLII that |
| 18  |   | met those criteria that you were describing. And  |
| 19  |   | you were explaining what the significance you     |
| 20  |   | draw from these reported cases as a whole,        |
| 21  |   | acknowledging that it's anecdotal.                |
| 22  |   | Are there any particular cases that you           |
| 23  |   | would highlight that illustrate any important     |
| 24  |   | points from your perspective?                     |
| 0.5 | - |   |

A Yeah, you know, sure. There's some that speak

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| 1  | to the types of money laundering that, you know, |
|----|--|
| 2  | we've talked about. You know, the one the        |
| 3  | first listed there from 2020, it was interesting |
| 4  | that a civilian police agent became an           |
| 5  | informant, and the role that he assumed within   |
| 6  | the organized crime group that he penetrated was |
| 7  | one of the accountant. That shows the            |
| 8  | significance of his of that role to the          |
| 9  | scheme. It is a necessary function.              |
| 10 | You know, we look at a fellow who was            |
| 11 | self-laundering the next one, Neilson, where he  |
| 12 | was laundering the proceeds of his own           |
| 13 | securities fraud.                                |
| 14 | And I suppose I would just touch on the one      |
| 15 | which is PacNet Services, where I understand     |
| 16 | that there are still some proceedings ongoing    |
| 17 | with PacNet, but what was interesting to me      |
| 18 | about that reported case was that in a period    |
| 19 | where PacNet was listed as a sanctioned entity   |
| 20 | by the Office of Foreign Asset Control, it       |
| 21 | attempted to and apparently succeeded in         |
| 22 | depositing a draft from the UK into the trust    |
| 23 | account of their accountant, which was           |
| 24 | apparently a public accounting firm in BC.       |

And so, you know, it's only anecdotally that

| 1  |   | accountants, the veil of legitimacy of            |
|----|---|---|
| 2  |   | accounting firm bank accounts are used or         |
| 3  |   | exploited to try to muddy the investigative       |
| 4  |   | trail.  |
| 5  | Q | Mr. McGuire, what do you draw from the whole      |
| 6  |   | combination of the theoretical models, the FATF,  |
| 7  |   | other international bodies' reports, the academic |
| 8  |   | literature and then the reports and comments of   |
| 9  |   | law enforcement and then these criminal cases     |
| 10 |   | broadly? What do you draw from that and what      |
| 11 |   | limitations are there in terms of being able to   |
| 12 |   | accurately say the extent to which or how much    |
| 13 |   | laundering may be occurring or what it looks like |
| 14 |   | in the accounting profession in Canada?           |
| 15 | А | Sure. Mr. Isaac, would you mind if I just         |
| 16 |   | briefly refer to some of the research that I      |
| 17 |   | mention a little later on in the report?          |
| 18 |   | There's one more component of this that I think   |
| 19 |   | would be useful to that helped inform my          |
| 20 |   | conclusion, which is some of the professional     |
| 21 |   | discipline cases in both BC and Ontario. Would    |
| 22 |   | you mind if I highlighted just a couple of those  |
| 23 |   | while I'm here?                                   |
| 24 | Q | Absolutely. Is there a portion of the report      |
| 25 |   | that you'd like us to go to as a point, or        |

| 1  | А | Sure. I believe it's footnote it's on the        |
|----|---|--|
| 2  |   | page where footnote 19 appears, I think.         |
| 3  | Q | Let me assist. I think that would make it        |
| 4  |   | page 24, please. At the bottom there of page 24. |
| 5  | А | Right. Yes. So, you know, one of the other       |
| 6  |   | places to look you know, one of the things       |
| 7  |   | I mentioned the research that I helped           |
| 8  |   | Ms. Ferraz with in terms of the security sector. |
| 9  |   | And so one of the things you can do to think     |
| 10 |   | about money laundering is to first look at the   |
| 11 |   | civil side of things; right? The extent to       |
| 12 |   | which accountants are involved in civil frauds,  |
| 13 |   | for instance, or instances where there are       |
| 14 |   | proceeds from things that look like criminal     |
| 15 |   | offences. And then the other place to look, you  |
| 16 |   | know, I mentioned to her in the case of          |
| 17 |   | securities was disciplinary offences, where it   |
| 18 |   | might not show up as a reported money laundering |
| 19 |   | case but discipline cases give you some          |
| 20 |   | indications about where there might be           |
| 21 |   | involvement of the regulated members in          |
| 22 |   | activities that would generate the proceeds of   |
| 23 |   | crime. We talked about how, you know, dealing    |
| 24 |   | with the proceeds of any designated offence      |
| 25 |   | knowingly is money laundering.                   |
|    |   |  |

| 1  | And so there are a number of instances where     |
|----|--|
| 2  | you look at professional discipline cases in     |
| 3  | both Ontario and BC where these sort of          |
| 4  | apparently criminal acts have occurred and that  |
| 5  | the accountant is alleged to have dealt with     |
| 6  | those proceeds. And so money laundering has      |
| 7  | occurred and there's a whole host, I looked at   |
| 8  | roughly 20 that I think are indicative in        |
| 9  | Ontario. One involves a fellow that belonged to  |
| 10 | a criminal organization that committed some      |
| 11 | 26 frauds and he assisted with the paperwork.    |
| 12 | That was as recently as September 2020. Another  |
| 13 | fellow with false and misleading financial       |
| 14 | statements for his own financial gain in BC.     |
| 15 | Again, fraudulent financial statements for gain, |
| 16 | frauds against employers, thefts.                |
| 17 | So, you know, there were a fair number of        |
| 18 | instances. I've summarized in footnotes in       |
| 19 | footnote 18 related to BC the types of apparent  |
| 20 | offences that these members were cited for and   |
| 21 | that, you know, in a number of these instances   |
| 22 | it would generate proceeds in those, and dealing |
| 23 | with those proceeds would be money laundering.   |
| 24 | And so, Mr. Isaac, to get back to your           |
| 25 | broader question, which is, you know, I don't    |

25

| 1  | think anybody disputes that is a significant    |
|----|---|
| 2  | amount of money that's being laundered. In the  |
| 3  | ways that we believe the money is being         |
| 4  | laundered or must be laundered to be able to    |
| 5  | avoid scrutiny, accountant skill is necessary.  |
| 6  | There are some anecdotal criminal cases that    |
| 7  | show us that. There are some professional       |
| 8  | discipline cases that show us that it's         |
| 9  | happening.                                      |
| 10 | And there's some early research that            |
| 11 | demonstrates that it happened in Canada even    |
| 12 | before anti-money laundering rules became       |
| 13 | stringent and called out for the necessity of   |
| 14 | professional assistance. And we have both the   |
| 15 | international bodies and our domestic law       |
| 16 | enforcement and our Financial Intelligence Unit |
| 17 | telling us that this is one of their the        |
| 18 | primary risks that they're seeking to deal      |
| 19 | with primary threats, rather.                   |
| 20 | So taken together, I conclude that there        |
| 21 | must be significant accountant involvement in   |
| 22 | money laundering far beyond which is reflected  |
| 23 | by our STR numbers.                             |
|    |   |

There's one more source that I think is

exceptionally important to this point which is

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| the suspicious transaction report numbers that   |
|--|
| we see in the United Kingdom. I conducted an     |
| analysis just, you know, apart from this study   |
| of all countries and their compliance with just  |
| basic analysis of countries compliance with the  |
| same recommendations. You know, and one of the   |
| front runners in constraining money laundering   |
| and understanding money laundering risk by       |
| accountants is the UK, who since 2017 have rated |
| the risk of accountants and money laundering as  |
| high and, you know, with good empirical          |
| evidence.  |

In 2000 -- you know, I mentioned that I worked as a forensic accountant in the UK, you know, and back in 2002 around the time I was there, their statistics were quite low for suspicious transaction reports as well. There was only roughly a hundred in the course of a year. And I recognize fully that their accounting sector, their economy is it different than our own. But, you know, once they started taking very aggressive outreach measures and implementing oversight over both regulated and unregulated accountants, the numbers skyrocketed.

| 1  |   | But between 2002 and 2007, their suspicious       |
|----|---|---|
| 2  |   | transaction report numbers rose from is 134 to    |
| 3  |   | nearly 10,000 in a year. 10,000 suspicious        |
| 4  |   | transactions reports a year from the accounting   |
| 5  |   | sector. The number now hovers around 5,000 a      |
| 6  |   | year, but it's a far cry from the zero that       |
| 7  |   | we've seen in many of the years since the         |
| 8  |   | requirements applied to accountants in Canada.    |
| 9  |   | This I think supports the idea that               |
| 10 |   | accountants are observing in the parts of the     |
| 11 |   | world where they're receiving significant         |
| 12 |   | outreach and enforcement oversight, they are      |
| 13 |   | observing these crimes and these transactions     |
| 14 |   | and are reporting them and it's leading to        |
| 15 |   | certainly great outcomes in the UK.               |
| 16 | Q | I'd like to turn if we go up to page 14 of        |
| 17 |   | your report, go to the second question that you   |
| 18 |   | addressed, which was consideration of the         |
| 19 |   | effectiveness of the existing regime here to      |
| 20 |   | address potential accountant involvement in money |
| 21 |   | laundering.                                       |
| 22 |   | So if I could begin by asking what                |
| 23 |   | methodology did you use to consider and assess    |
| 24 |   | the effectiveness of the regime to address        |

accountant involvement in money laundering in

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| 1 |   | Canada, and what was your basis for doing so?    |
|---|---|--|
| 2 | A | Sure. You know, it there was already a           |
| 3 |   | roadmap laid out to evaluate effectiveness and   |
| 4 |   | that's the international standards for           |
| 5 |   | evaluating the effectiveness of the country with |
| 6 |   | respect to their designated non-financial        |
| 7 |   | businesses of which and again, professions of    |
| 8 |   | which accountants are a part.                    |

And so I adopted their methodology wholesale, and a part of that was because I could -- you know, using that method I could observe a trend. Canada has been subject to effectiveness reviews against the FATF standards before, and so I could look to the third evaluation of Canada and the fourth evaluation of Canada and look at little bit about how we progressed from those first two evaluations to now as a little bit of a checkpoint.

In the most recent methodology documents from the FATF there are really -- there are two ways that they look at our regime. The first is to say do we technically adhere to the standards. So do we cover the right activities, and do we -- are the right activities -- are the right obligations attracted to those activities.

| 1  |   | And then the second part, which is a newer        |
|----|---|---|
| 2  |   | development for the Financial Action Task Force,  |
| 3  |   | is the idea that you don't just need to be        |
| 4  |   | compliant, you actually have to achieve           |
| 5  |   | something; right? So the second aspect is what    |
| 6  |   | they call the effectiveness assessment that       |
| 7  |   | says, are we producing the outcomes and results   |
| 8  |   | that we need to be with respect to the            |
| 9  |   | regulation of accountants. So not just are you    |
| 10 |   | doing what we say you should do, but is it        |
| 11 |   | working the way it's supposed to work.            |
| 12 | Q | Well, let's look at the first of those two        |
| 13 |   | questions that you looked at. Beginning at        |
| 14 |   | paragraph 36 and then continuing through to       |
| 15 |   | paragraph 44 of your report, that entire section  |
| 16 |   | addresses how an accountant is defined, whether   |
| 17 |   | by the PCMLTFA, by FATF and by the provincial     |
| 18 |   | regulatory bodies.                                |
| 19 |   | Why is so much ink spilled in your report on      |
| 20 |   | this idea of what constitutes accounting services |
| 21 |   | to the public?                                    |
| 22 | А | Yeah. Thanks. You know, the idea is that all      |
| 23 |   | obligations stem from this concept. There are     |
| 24 |   | two you can imagine two ways of going about       |
| 25 |   | regulating accounting services; right? You        |

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say -- you know, the first way is to say you are

covered because of who you are in terms of your

designation and the second way is to say you are

covered because of what you do.

And so the approach taken in the legislation is a little bit of a hybrid approach where it says well, if you're an accountant, so you're a designated accountant, you're subject to the rules when performing particular activities.

And then the second bit is accounting firms are those that provide particular services, so -- but also have at their helm at least one designated accountant. So it's a little bit of a hybrid approach. And the problem is that all of the obligations stem from this idea of, are you an accountant or an accounting firm considering these definitions. And an accounting firm has this phraseology which is it's an entity engaged in the business of providing accounting services to the public.

So, you know, the question we dealt with even in the guide -- in the guide as a committee was the frustration that, you know, the federal legislation said here's accounting services to the public. You know, accounting firms are

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those that provide accounting services to the

public. And then you say well, what does that

mean? There's no definition in the PCMLTFA to

tell me what accounting services to the public

are. There's no guidance that provides

information. FINTRAC's new glossary doesn't

have accounting services to the public.

And so, you know, part of my report -- and

And so, you know, part of my report -- and I understand that part of the contentious part of my report is what does that really mean, what is providing accounting services to the public.

And the method that I followed, my thought process was well, in the absence of a definition in the act and in the absence of guidance or a glossary that helps me understand, I went to the provincial legislation and bylaws related to the profession as I read them to try to get a better understanding. And, you know, that's where a lot of this -- a lot of the issue takes place is in understanding who is covered, you know, trying to flow through that definition.

And, you know, I say, Mr. Isaac, I spent a fair amount of time thinking and dealing with this, and it's still unclear to me. And so I suppose that the point I want to take -- I would

| 1  |     | love to be taken away from this part of the       |
|----|-----|---|
| 2  |     | this section of the report is that it's           |
| 3  |     | difficult. It's unclear who is covered            |
| 4  |     | because of the definition. And certainly in my    |
| 5  |     | view no matter which position you take about the  |
| 6  |     | extent of what providing accounting services to   |
| 7  |     | the public are, it would be hard to match up      |
| 8  |     | still with the FATF's definition in any           |
| 9  |     | province.   |
| 10 | MR. | ISAAC: I think it might be helpful, Hearing       |
| 11 |     | Officer, if we could pull up exhibit 393 again    |
| 12 |     | and go to page 20 of that.                        |
| 13 | Q   | And, Mr. McGuire, you were explaining this sort   |
| 14 |     | of cascade of how do you determine whether or not |
| 15 |     | you're covered under the PCMLTFA. And if we       |
| 16 |     | could go to page 20, please of this report. I     |
| 17 |     | believe there's a sort of a waterfall diagram     |
| 18 |     | under the heading "Do I Have Obligations As an    |
| 19 |     | Accountant?" And could you just explain what's    |
| 20 |     | shown what this indicates, and if you could       |
| 21 |     | explain what the purpose of this is and walk us   |
| 22 |     | through how an accountant would determine whether |
| 23 |     | or not they have obligations under the federal    |
| 24 |     | anti-money laundering legislation?                |
| 25 | А   | Yeah, I'd be glad to. Would you mind if we went   |

| 1  |   | one section further? It's a little more helpful  |
|----|---|--|
| 2  |   | in terms of I think in terms of what's           |
| 3  |   | considered in term of an accounting firm rather  |
| 4  |   | than accountant. Just                            |
| 5  | Q | Yes. Yeah.                                       |
| 6  | А | Right. 2.3.2. So, you know, the first thing      |
| 7  |   | you say is, you know, do you provide accounting  |
| 8  |   | services to the public? That's the first         |
| 9  |   | question to ask. And in this guide we have       |
| 10 |   | decided that the best reference to give would be |
| 11 |   | to the then CPA Alberta legislation where they   |
| 12 |   | list out a number of services that are           |
| 13 |   | considered a public accountant.                  |
| 14 |   | So if you don't provide those accounting         |
| 15 |   | services to the public, then you are not         |
| 16 |   | covered. So that's an important point is that    |
| 17 |   | you could be providing qualifying activities     |
| 18 |   | you can think about those qualifying activities  |
| 19 |   | that we spoke about and not be an accounting     |
| 20 |   | firm and have no obligation under the            |
| 21 |   | legislation. That is why I'm a big fan of        |
| 22 |   | approaches that look to the services you provide |
| 23 |   | and not necessarily what designation you have.   |
| 24 |   | And then the next question is so you might       |

provide accounting services to the public, but

| _  | The second company of the production and the produc |
|----|--|
| 2  | designated with a Canadian designation. So   |
| 3  | picture, if you will, an accounting firm   |
| 4  | where or a bookkeeping firm where the  |
| 5  | individual at the helm of the bookkeeping firm   |
| 6  | is a foreign trained chartered accountant. So  |
| 7  | trained as a US CPA. Well, that firm would not   |
| 8  | qualify once we get to this point in the table   |
| 9  | because they don't have at least one of their  |
| 10 | folks who are professionally designated with a   |
| 11 | Canadian professional designation.   |
| 12 | So then you get to the next point and you  |
| 13 | say, well, do you perform transactions or give   |
| 14 | instructions that involve triggering activities,   |
| 15 | otherwise known as qualifying activities. Those  |
| 16 | are those three there: receiving, paying or  |
| 17 | transferring funds; purchasing, selling  |
| 18 | property, business assets or entities;   |
| 19 | purchasing, transferring, selling securities.  |
| 20 | So you see the problem here is that next is  |
| 21 | that this is performing the transactions, so   |
| 22 | or giving instructions, not advice. So if you  |
| 23 | get to this point in the diagram and you   |
| 24 | realize or in the waterfall diagram and you  |
| 25 | realize that you're only giving advice with  |
|    |  |

you don't have an employee who is professionally

| 1  |   | respect to these things, you're still you're      |
|----|---|---|
| 2  |   | not covered. Let's say that you are covered.      |
| 3  |   | And then the next question is are you only        |
| 4  |   | doing those things with respect to insurance      |
| 5  |   | engagement or trustee in bankruptcy               |
| 6  |   | appointments. And if the answer is yes, again     |
| 7  |   | you're not covered.                               |
| 8  |   | So I had to you know, in this guide               |
| 9  |   | together with CPS Canada we've spent, you know,   |
| 10 |   | nearly four pages just to try to explain to a     |
| 11 |   | person or a firm whether or not they even have    |
| 12 |   | obligations. And, you know, I think you can see   |
| 13 |   | as we go through the waterfall diagram that it    |
| 14 |   | gets narrower and narrower to the point where it  |
| 15 |   | might not capture all the concepts that the FATF  |
| 16 |   | say are subject to a money laundering threat by   |
| 17 |   | the sorts of services accountants provide.        |
| 18 | Q | Thank you. And if we could go back to your        |
| 19 |   | report, which is exhibit 394, please. You had     |
| 20 |   | indicated that in search of a definition of what  |
| 21 |   | is accounting services to the public that would   |
| 22 |   | inform an accountant trying to understand whether |
| 23 |   | or not they are engaged in activities under the   |
| 24 |   | act, that it's not simple.                        |

And I'd like to ask what's your

| 1  |   | understanding of the level of awareness by       |
|----|---|--|
| 2  |   | accountants of their obligations under FINTRAC.  |
| 3  |   | And what is your basis for having that           |
| 4  |   | understanding.                                   |
| 5  | А | You know, based on all the public accounting     |
| 6  |   | firms that I deal with, have dealt with, have    |
| 7  |   | been within and to regularly or sometimes come   |
| 8  |   | for advisory services, I find the level of       |
| 9  |   | understanding to be quite low. It was low in     |
| 10 |   | 2015, you know, and it was one of the reasons we |
| 11 |   | started the outreach activities, and similarly   |
| 12 |   | now I believe there's a low understanding. And   |
| 13 |   | to, you know, support that point, the number of  |
| 14 |   | suspicious transaction reports filed by          |
| 15 |   | accountants still tends towards zero in any      |
| 16 |   | given year. Zero across the entire industry in   |
| 17 |   | any given year. And there are virtually no       |
| 18 |   | examinations by FINTRAC of accountants in any    |
| 19 |   | given year. And we know that the                 |
| 20 |   | self-regulatory organizations don't conduct      |
| 21 |   | examinations for the purpose of AML and          |
| 22 |   | therefore I expect there has been very little    |
| 23 |   | increase in knowledge over time by accountants   |
| 24 |   | of their obligations or how to fulfill them.     |

Q Has FINTRAC -- are you aware of FINTRAC ever

25

| 1  |   | expressing what their assessment of the level of  |
|----|---|---|
| 2  |   |   |
|    |   | awareness of the obligations the AML              |
| 3  |   | obligations are within the accounting profession? |
| 4  | А | Sure. I mean, they expressed the same             |
| 5  |   | frustration. When we invite them as the CPA       |
| 6  |   | committee to talk to us about the level of        |
| 7  |   | engagement and how we might increase that, they   |
| 8  |   | also expressed their frustration with the lack    |
| 9  |   | of understanding of obligations in accounting     |
| 10 |   | firms.  |
| 11 | Q | You note at paragraph 44 of your report on        |
| 12 |   | page 18 that FINTRAC has maintained that trustee  |
| 13 |   | and bankruptcy services that those services       |
| 14 |   | are specifically exempted from being triggering   |
| 15 |   | activities, the triggering activities we were     |
| 16 |   | referring to before. Do you know whether or not   |
| 17 |   | there's a policy rationale for that exemption and |
| 18 |   | what the significance of that is, please.         |
| 19 | A | Sure. I understand, you know, in reading that     |
| 20 |   | interpretation and a few other policy             |
| 21 |   | interpretations and even in discussions with      |
| 22 |   | them that the reason they had decided to exempt   |
| 23 |   | insolvency was the idea that there was very       |
| 24 |   | little risk of money laundering. And if there     |
| 25 |   | was a risk of money laundering, it was            |

25

been.

| 1   | constrained by the fact that there was court     |
|-----|--|
| 2   | oversight of the processes. And perhaps even     |
| 3   | furthermore that, you know, when an insolvency   |
| 4   | trustee was involved that they were acting for   |
| 5   | themselves and the court, not for the            |
| 6   | individuals involved.                            |
| 7   | You know, since that time, I think our           |
| 8   | understanding of insolvency and the risk of      |
| 9   | money laundering has become far more             |
| 10  | sophisticated. If you look at, for instance,     |
| 11  | the Seaquest case back in their bankruptcy       |
| 12  | was in within. It was Seaquest was a Ponzi       |
| 13  | scheme and clearly a money- laundering operation |
| 14  | that tried to exploit insolvency laws for the    |
| 15  | purposes of laundering funds and concealing      |
| 16  | their Ponzi activities.                          |
| 17  | I was just researching some of the extent of     |
| 18  | bankruptcy and money laundering in Canada. You   |
| 19  | know, the statistics are quite significant.      |
| 20  | There is a integrated bankruptcy team of the     |
| 21  | RCMP that looks to enforce bankruptcy fraud and  |
| 22  | related money laundering and they're since       |
| 23  | 2012 there's been 184 separate cases. So I       |
| 0.4 |  |

think the risk is now more poignant than it has

| 1  |   | In the UK a few of the cases that they're         |
|----|---|---|
| 2  |   | observing now with the benefit of 5,000           |
| 3  |   | suspicious transactions in the years that, you    |
| 4  |   | know, money launderers are becoming so brazen as  |
| 5  |   | to use court cases to purposely lose to each      |
| 6  |   | other for one loses to the other, for             |
| 7  |   | instance, to able to launder funds. To put the    |
| 8  |   | illicit proceeds through the court and to get     |
| 9  |   | its veil of legitimacy. So I'm not a fan of the   |
| 10 |   | exemption, but I understand why they put it in    |
| 11 |   | place in the first place.                         |
| 12 | Q | To understand, in your view is there something    |
| 13 |   | lost even if there is another form of             |
| 14 |   | supervision and the court supervision of          |
| 15 |   | bankruptcy services in Canada, is there something |
| 16 |   | that may be lost from an intelligence             |
| 17 |   | perspective, by FINTRAC perhaps, not having       |
| 18 |   | visibility through reporting from those sorts of  |
| 19 |   | activities?                                       |
| 20 | А | Yeah, it's a very good point. You know, despite   |
| 21 |   | the involvement of a trustee, the fact that the   |
| 22 |   | trustee doesn't have the obligation to report     |
| 23 |   | those observations to FINTRAC, it lessens the     |
| 24 |   | intelligence available to FINTRAC to connect      |
| 25 |   | those dots. So that would be a prime motivator,   |

1 I think, for including them among those that 2 must report. Thank you. 3 0 4 MR. ISAAC: Mr. Commissioner, looking at the time, it is almost 11:00. We do have requests and 5 allocations for questions from participants of 6 2 hours and 15 minutes today. I do think that I 8 will try to work through the remaining evidence as efficiently as possible, but there may be a 9 10 potential of perhaps running long. And I just 11 want to just pause at this moment and see 12 whether or not that raised any issues for the 13 Commission, potentially running 15 to 30 minutes 14 long today. 15 THE COMMISSIONER: No. I have a meeting scheduled, 16 via Zoom of course, for 2:30 today, but if we 17 can conclude proceedings by then, then I think 18 that's just fine. And I expect the meeting 19 could probably be shifted later too, if that's 20 necessary. 21 MR. ISAAC: I think it won't be, Mr. Commissioner. 22 expect we won't need to run more than half an 23 hour long, if everyone is able to stick to their 2.4 estimates this afternoon. But I did want to

make sure that that was okay before we continued

Matthew McGuire (for the Commission) Exam by Mr. Isaac

| 1  | further today.                                     |
|----|--|
| 2  | THE COMMISSIONER: No, that's fine. Thank you. Do   |
| 3  | you want to take 15 minutes?                       |
| 4  | MR. ISAAC: Yes. Actually, now would be a good time |
| 5  | for that. Thank you.                               |
| 6  | THE COMMISSIONER: All right. We'll do that.        |
| 7  | THE REGISTRAR: The hearing is now adjourned for a  |
| 8  | 15 minute recess until 11:14 a.m. Please mute      |
| 9  | your mic and turn off your video. Thank you.       |
| 10 | (WITNESS STOOD DOWN)                               |
| 11 | (PROCEEDINGS ADJOURNED AT 10:59 A.M.)              |
| 12 | (PROCEEDINGS RECONVENED AT 11:14 A.M.)             |
| 13 | THE REGISTRAR: The hearing is resumed,             |
| 14 | Mr. Commissioner.                                  |
| 15 | MATTHEW MCGUIRE, a                                 |
| 16 | witness for the                                    |
| 17 | Commission, recalled.                              |
| 18 |  |
| 19 | THE COMMISSION: Yes, Mr. Isaac.                    |
| 20 | EXAMINATION BY MR. ISAAC (continuing):             |
| 21 | Q Mr. McGuire, before we move on from the topic of |
| 22 | technical compliance, which we were discussing     |
| 23 | before the break, if you could turn to page 20 of  |
| 24 | your report, please.                               |
|    |  |

| 1  | Q | Thank you. And this is a table. And would you     |
|----|---|---|
| 2  |   | just explain what this table illustrates in terms |
| 3  |   | of your assessment of that question of technical  |
| 4  |   | compliance.                                       |
| 5  | А | Sure. So really I was trying to break down this   |
| 6  |   | table, just my understanding of the FATF          |
| 7  |   | recommendation to the Proceeds of Crime (Money    |
| 8  |   | Laundering) and Terrorist Financing Act. And so   |
| 9  |   | I broke it down into a few separate points;       |
| 10 |   | right? The first was what were the accounting     |
| 11 |   | services that would subject them to both fitness  |
| 12 |   | and anti-money laundering supervision. So         |
| 13 |   | supervision for of the membership and             |
| 14 |   | anti-money laundering supervision. And so I've    |
| 15 |   | listed those there, which the FATF would see on   |
| 16 |   | a risk-sensitive basis included.                  |
| 17 |   | And then you can see that, you know, my           |
| 18 |   | analysis is fairly absent in the right-hand       |
| 19 |   | column for the Canadian legislation because it    |
| 20 |   | is, in my view, a province-by-province analysis   |
| 21 |   | in the absence of a FINTRAC definition or a       |
| 22 |   | legislative definition specifically.              |
| 23 |   | And then the next bit I've mentioned is the       |
| 24 |   | level of involvement of the accountant. So I've   |

mentioned that in Canadian legislation it says

2.1

2.4

| 1 | that accountants are covered when they           |
|---|--|
| 2 | provide engage in or provide instructions,       |
| 3 | and it excludes that which the FATF says the     |
| 4 | standard should be expanded to, which is both    |
| 5 | preparation for or carrying out the transactions |
| 6 | for the specified activities.                    |

The next element of the FATF definition or expectation and recommendation is really around the specific activities, this whole concept of qualifying or triggering activities, those for which the obligations would apply.

And so you can see the analysis of what is the FATF expectation that accountants would be covered with buying or selling real estate or preparing for those things, managing of client money securities or assets, management of bank savings or securities accounts, organizational contributions for the creation, operation or management of companies. And I again would stress both the conduct of those activities and the preparation of those activities which, in my view, includes advice.

And then creation and operation and management of legal persons and arrangements and buying and selling of entities. And then -- so

| 1  |   | you compare those that list against the list     |
|----|---|--|
| 2  |   | in Canada's legislation. There are many          |
| 3  |   | similarities. You know, you see the              |
| 4  |   | organization of that there's a distinct          |
| 5  |   | absence here when we talk about (d) and (e)(i).  |
| 6  |   | And those you know, I understand again that      |
| 7  |   | these are these functions may involve the        |
| 8  |   | practice of law, and I just again hasten to      |
| 9  |   | point out that the preparation for those         |
| 10 |   | activities may not be considered the practice of |
| 11 |   | law and therefore that they would rightfully be  |
| 12 |   | included in the legislation.                     |
| 13 |   | And then the last the last row spills on,        |
| 14 |   | Mr. Isaac, to the last page or to the next       |
| 15 |   | page.  |
| 16 | Q | Yes. If we could scroll forward. Thank you,      |
| 17 |   | Hearing Officer.                                 |
| 18 | А | It says so it's what are the activities          |
| 19 |   | that are subject to suspicious transaction       |
| 20 |   | reporting. The FATF would expand it to the rest  |
| 21 |   | of the professional activities, including        |
| 22 |   | auditing. So what it's saying is that for the    |
| 23 |   | purpose of the legislation implemented by the    |
| 24 |   | country, that you wouldn't that even in cases    |
| 25 |   | where you'd even in cases where you might        |

| 1  |   | exclude certain activities by an accountant      |
|----|---|--|
| 2  |   | from, say, identification requirements, you      |
| 3  |   | would still extend the requirement to report     |
| 4  |   | suspicious transactions when observed. And in    |
| 5  |   | Canadian legislation it's you know, it very      |
| 6  |   | narrowly says that only those specified          |
| 7  |   | activities are subject to suspicious transaction |
| 8  |   | reporting, not the balance. And insurance        |
| 9  |   | activities and insolvency are specifically       |
| 10 |   | exempted.  |
| 11 | Q | Thank you. And you conclude this section at      |
| 12 |   | paragraph 48 by stating that based on your       |
| 13 |   | assessment Canada's regime regarding accountants |
| 14 |   | is technically not compliant with FATF           |
| 15 |   | recommendations. Is that right?                  |
| 16 | А | Yeah, that is my conclusion. And it's            |
| 17 |   | consistent with the FATF's own conclusions, the  |
| 18 |   | third and fourth mutual evaluation of Canada     |
| 19 |   | came to the same conclusion in terms of those    |
| 20 |   | gaps.  |
| 21 | Q | Okay. I'd like to move on now to that second     |
| 22 |   | component of the FATF assessment approach that   |
| 23 |   | you described. And that begins at the heading    |
| 24 |   | 7.5 under "Consideration of Effectiveness." And  |
| 25 |   | the first subheading there immediately below is  |

| 1  |   | "Monitoring and Oversight of Compliance." Why     |
|----|---|---|
| 2  |   | are those topics important?                       |
| 3  | А | Yeah. So the idea is that, you know, you can      |
| 4  |   | have all the standards you like, but if nobody    |
| 5  |   | is enforcing them, there's likely to be less      |
| 6  |   | adherence to them; right? And so the monitoring   |
| 7  |   | and supervision is really about making sure the   |
| 8  |   | things that we need to happen are happening.      |
| 9  |   | And so, you know, we look again at all the focus  |
| 10 |   | of these or the new focus of the FATF             |
| 11 |   | evaluation is outcomes. And so much like in an    |
| 12 |   | AML program within an accounting firm I tell      |
| 13 |   | everyone as well as banks and credit unions, you  |
| 14 |   | know, conducting an examination of your own       |
| 15 |   | program against the standards you create is       |
| 16 |   | essential to make sure it stays on the right      |
| 17 |   | track.  |
| 18 |   | And so similarly, the oversight of adherence      |
| 19 |   | to anti-money laundering standards is essential   |
| 20 |   | to making sure that it happens in the way that    |
| 21 |   | we would hope it happens.                         |
| 22 | Q | And you note in this section that one of the      |
| 23 |   | principal deficiencies noted by the FATF, both in |
| 24 |   | its third and fourth evaluation of Canada's AML   |
| 25 |   | regime regarding accountants, does relate to this |

| 1  |   | questioning of monitoring and oversight. Would  |
|----|---|---|
| 2  |   | you please explain that further. What has the   |
| 3  |   | FATF how has it judged those two aspects of     |
| 4  |   | monitoring and oversight currently as they are  |
| 5  |   | carried out in Canada with respect to           |
| 6  |   | accountants?                                    |
| 7  | А | Yeah. You know, it's a very consistent theme.   |
| 8  |   | So, you know, they point out rightly that there |
| 9  |   | is an effective regime over the fitness of      |
| 10 |   | participants in of accounting participants to   |
| 11 |   | the extent that they're covered, but that the   |
| 12 |   | self-regulatory organizations do not deal with  |
| 13 |   | anti-money laundering. And so we're entirely    |
| 14 |   | dependent on FINTRAC to monitor provide         |
| 15 |   | monitoring and oversight with respect to        |
| 16 |   | anti-money laundering. And they said in their   |
| 17 |   | third mutual evaluation in 2008 that, you know, |
| 18 |   | limited staff resources deprives FINTRAC of     |
| 19 |   | closely and effectively monitoring the          |
| 20 |   | designated non-financial business and           |
| 21 |   | professionals compliance with the PCMLTFA       |
| 22 |   | compliance especially in sectors and provinces  |
| 23 |   | where primary regulators or self-regulatory     |
| 24 |   | organizations are not or are insufficiently     |
| 25 |   | involved in anti-money laundering and           |

| 1  |   | counterterrorist financing compliance            |
|----|---|--|
| 2  |   | supervision.                                     |
| 3  | Q | And, Mr. McGuire, that is a quote I believe      |
| 4  |   | you've cited at paragraph 53; is that correct?   |
| 5  | А | That's right. A direct that's a quote from       |
| 6  |   | the third mutual evaluation. That's correct.     |
| 7  | Q | So what in the next section of your report       |
| 8  |   | beginning and page 54 you describe the level of  |
| 9  |   | FINTRAC's efforts to assess compliance of        |
| 10 |   | accountants and accounting firms in Canada. And  |
| 11 |   | would you please explain what you refer to here  |
| 12 |   | in terms of what those efforts have looked like. |
| 13 |   | You make reference to a survey as well as the    |
| 14 |   | statistics around actual examinations by FINTRAC |
| 15 |   | of accountants and accounting firms. If you      |
| 16 |   | could explain what's shown there. And I think    |
| 17 |   | it's paragraph 54 in particular where this       |
| 18 |   | information is presented.                        |
| 19 | А | I see that here now. Thank you. Well, you        |
| 20 |   | know, in its early days FINTRAC did what         |
| 21 |   | would you know, it took a very rational          |
| 22 |   | approach to the initiation of compliance         |
| 23 |   | proceedings; right? I mean, the first thing you  |
| 24 |   | want to do when you regulate a large group of    |
| 25 |   | people is try to first of all gather a list of   |

2.1

2.4

| 1 | who those all are and then second try to        |
|---|---|
| 2 | understand the risk that they pose. So the      |
| 3 | first thing they did, you know, was to survey   |
| 4 | accountants and accounting firms with a view to |
| 5 | having their attest themselves to their own     |
| 6 | level of compliance with the standards.         |
| 7 | That was a split exercise between 2006/07       |
|   |   |

That was a split exercise between 2006/07 and 2011/12. And so -- and it was across sectors. You know, one of the things that's surprising to me was, you know, first that the response rate was only 75 percent. That's -- you know, the 25 percent, there was no questionnaire for is surprising to me. But then, you know, that exercise, this survey exercise is useful for that initial mapping of the players, the relevant players in the sector and their attestation of their own risk.

But where the rubber really hits the road is when you conduct a desk or an in-person examination. It gives the opportunity of the examiner to take a deep dive into the program structure, the records, conduct interviews to assess the level of understanding and start pushing towards a more mature compliance program at the entity. You know, and also gives the

| 1  | opportunity to observe, you know, areas where    |
|----|--|
| 2  | firms are clearly not at all committed to        |
| 3  | compliance. Understand a little bit more about   |
| 4  | the culture to develop further information about |
| 5  | how to direct future examinations. And these     |
| 6  | statistics are low.                              |
| 7  | You know, you see in that paragraph 54 that      |
| 8  | there were there's a few years where there       |
| 9  | were no examinations. In for the last couple     |
| 10 | of years we know about there were in             |
| 11 | 2013/2014 there were 11. In 2014/15 there were   |
| 12 | 10. In some of the materials that I've seen      |
| 13 | submitted have suggested that in BC alone there  |
| 14 | are 80,000 folks who identify as accountants.    |
| 15 | Ten examinations seems low.                      |
| 16 | And, you know, I'm not that's not just my        |
| 17 | opinion. The FATF observes similarly; right:     |
| 18 | If you wouldn't mind me quoting in paragraph 55: |
| 19 | "Quite obviously, such a limited number of       |
| 20 | on-site examinations made by FINTRAC             |
| 21 | compared with the number of potential            |
| 22 | reporting entities cannot be considered as       |
| 23 | sufficient to ensure an effective                |
| 24 | monitoring of compliance even if FINTRAC         |
| 25 | targets its examinations based on a              |

| 1  |   | comprehensive risk assessment."                   |
|----|---|---|
| 2  | Q | And in sorry, go ahead.                           |
| 3  | A | Yeah. It goes on to say:                          |
| 4  |   | "It should be completed by interventions          |
| 5  |   | of provincial regulators or SROs.                 |
| 6  |   | However, these institutions are not in            |
| 7  |   | charge of ensuring AML/CFT compliance, and        |
| 8  |   | as for the other sectors examined above,          |
| 9  |   | their level of involvement in that area,          |
| 10 |   | the regulatory basis on which they rely           |
| 11 |   | and the methodology adopted may strongly          |
| 12 |   | differ from one province to another."             |
| 13 | Q | You go on, Mr. McGuire. You mentioned the 80,000  |
| 14 |   | sort of number of the entire universe of those    |
| 15 |   | carrying out accounting services in               |
| 16 |   | British Columbia. That includes both designated   |
| 17 |   | and not professionally designated accountants; is |
| 18 |   | that right?                                       |
| 19 | А | That's right.                                     |
| 20 | Q | Okay. If we look at the number, the universe of   |
| 21 |   | designated, those who might have reporting        |
| 22 |   | obligations under FINTRAC. Based on the           |
| 23 |   | examinations statistics that you have, what       |
| 24 |   | percentage of the profession had been subjected   |
| 25 |   | to the sort of deep-dive compliance examination   |

| 1  |   | that you refer to?                                |
|----|---|---|
| 2  | A | Yeah. Well, based on the FATF's derivation of     |
| 3  |   | the number of relevant entities and those         |
| 4  |   | FINTRAC statistics, and then assuming there were  |
| 5  |   | no repeat examinations, then, you know,           |
| 6  |   | something less than 4 percent of all reporting    |
| 7  |   | entities have been subject of an examination      |
| 8  |   | from 2004 to 2016.                                |
| 9  | Q | I'd like to turn to the question of what those    |
| 10 |   | appreciating it's a limited number, but what the  |
| 11 |   | compliance examinations that FINTRAC did carry    |
| 12 |   | out indicated in terms of compliance deficiencies |
| 13 |   | or other issues. And I think we do provide some   |
| 14 |   | information at paragraph 58 of your report as     |
| 15 |   | well as reference to paragraph 59.                |
| 16 |   | Would you just explain for the Commissioner,      |
| 17 |   | please, what these data indicate and what those   |
| 18 |   | compliance examinations that were conducted       |
| 19 |   | revealed in terms of the compliance within the    |
| 20 |   | profession?                                       |
| 21 | A | Sure. So, you know, knowing how many              |
| 22 |   | examinations were conducted and then having some  |
| 23 |   | access to information results in statistics in    |
| 24 |   | terms of the deficiencies that were observed.     |
| 25 |   | You can derive the percentage of firms with at    |

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| 1  | least one structural deficiency. And so a        |
|----|--|
| 2  | structural deficiency is one of we refer to      |
| 3  | them as anti-money laundering pillars. You need  |
| 4  | to have somebody in charge, the designated       |
| 5  | officer; you need a set of policies and          |
| 6  | procedures; you need training; you need a risk   |
| 7  | assessment and management plan; and you need     |
| 8  | some mechanism to evaluate whether or not you're |
| 9  | complying with the standards over time.          |
| 10 | And so I draw on the statistics to say well,     |
| 11 | you know that was inspired by the UK             |

And so I draw on the statistics to say well, you know -- that was inspired by the UK approach; right? Where they actually evaluate themselves based on how these statistics progress over time, that is how many firms get better as they examine. What is the -- they even break it down to -- on a firm-by-firm basis, how do the statistics improve.

So these statistics are a little bit of a jumble from that perspective. You know, what you can draw is that in some years virtually all of the examined entities -- look at 2012/2013.

You know, 23 of 25 entities examined had one structural -- one of five of their pillars of their program had a structural deficiency. You know, that's up from 2008/2009 where there were

| 1  |   | only 38 percent and but then there were           |
|----|---|---|
| 2  |   | 64 percent in 2013/2014.                          |
| 3  |   | It's hard to establish a trend line here          |
| 4  |   | with these numbers, but what you can say is that  |
| 5  |   | there are consistently structural deficiencies    |
| 6  |   | in the accounting firms that are examined.        |
| 7  |   | And if you were if you don't mind,                |
| 8  |   | Mr. Isaac, I might add. If you observed this,     |
| 9  |   | then your assessment of compliance risk in a      |
| 10 |   | sector should escalate. If you observe            |
| 11 |   | inconsistent compliance especially with the       |
| 12 |   | framework elements of compliance, I think         |
| 13 |   | naturally as a regulator you might assume that    |
| 14 |   | that sector is riskier and refocus your efforts   |
| 15 |   | there.  |
| 16 | Q | Now, I understand you referenced earlier that in  |
| 17 |   | your capacity as chair of the CPA Canada's AML    |
| 18 |   | committee, in 2015 FINTRAC you invited FINTRAC    |
| 19 |   | to provide a presentation and to engage with CPA  |
| 20 |   | Canada on some of these issues. What was did      |
| 21 |   | FINTRAC explain what their assessment of the risk |
| 22 |   | was at that time of the sector and why or         |
| 23 |   | their view of the sufficiency of the level of     |
| 24 |   | these compliance examinations?                    |
| 25 | А | Well, I mentioned that there was that one         |

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particular meeting where we invited FINTRAC to

attend and, you know, one of the things they

said -- they mentioned, as you point out, that

the level of awareness among accountants was

surprising, that many didn't even know they were

covered. They also expressed frustration with

the level of non-compliance.

When they talked about risk, it was difficult. You know, I'm surprised at the risk assessments that were being bandied about at that time. I recall from having refreshed with the meeting minutes that, you know, they talked about it being a low to a medium sector. And, you know, that was surprising for a number of reasons. One of which was that, you know, the national threat assessment drafts were already calling the accounting sector at least a medium risk.

Second is the level of compliance, as I point out. I suppose if you were to point to a third, you know, FINTRAC had commissioned a study by Grant Thornton of the risk of each sector. And, you know, the accounting sector was ranked as higher risk along with real estate even back in 2014. So I recall that their

| 1  |     | discussion about risk in the accounting sector   |
|----|-----|--|
| 2  |     | at that point while they expressed frustration   |
| 3  |     | with the level of compliance, it didn't seem as  |
| 4  |     | though they were prioritizing it in terms of     |
| 5  |     | examinations.                                    |
| 6  | Q   | And I think was it in that same meeting that I   |
| 7  |     | think you'd referred to earlier an indication    |
| 8  |     | from FINTRAC that they had assessed the level of |
| 9  |     | awareness within the profession as not well,     |
| 10 |     | what was their assessment? What did they         |
| 11 |     | communicate? What did FINTRAC communicate to     |
| 12 |     | you?   |
| 13 | А   | There was a low level of understanding of        |
| 14 |     | that the obligations existed and what they were. |
| 15 | Q   | Actually, it may be helpful if we pull up,       |
| 16 |     | please, the document at tab 35 of the index.     |
| 17 |     | That's CPAC65. And if we could go to page 8 of   |
| 18 |     | this document. And what I'm going to show you,   |
| 19 |     | Mr. McGuire, are the minutes that were produced  |
| 20 |     | by CPA Canada in reference to this presentation. |
| 21 |     | You'll see there's we're looking at the front    |
| 22 |     | page here March 4, 2015. Do you recognize those? |
| 23 | А   | I do.  |
| 24 | MR. | ISAAC: Okay. If we can have that marked as the   |
| 25 |     | next exhibit. I think that will be exhibit 395.  |

1 THE COMMISSIONER: Very well. THE REGISTRAR: Exhibit 395. Is that just that page, 2 3 Mr. Isaac, or the ... 4 MR. ISAAC: It will be a subset of that, Madam 5 Hearing Officer, but it begins at page 8. I understand that this document is a collection of 6 attachments that were attached to this email. 7 8 But we'll -- maybe if we could scroll through 9 it, I'll identify specifically the minutes. So it's pages 8, 9 and 10, 11, 12, 13, 14. 10 And I think that's the complete, at least for 11 12 the purposes of the questions that I have to 13 ask. 14 EXHIBIT 395: CPA Canada Anti-Money Laundering & 15 Anti-Terrorist Financing Committee Meeting 16 Minutes March 4, 2015 17 MR. ISAAC: And if we could go back, please, up to 18 page 8. Thank you. 19 So if we just scroll down. There's a reference Q 20 here to the FINTRAC session, and those are the 2.1 representatives of FINTRAC that came to present 22 to the AML committee, Mr. McGuire? 23 Lisa Douglas and Frank Lofranco. 2.4 Okay. Thank you. And if we could scroll down, Q

please, to the next page. And I won't take you

| 1  |   | through all of this. There appears to be a    |
|----|---|---|
| 2  |   | presentation that was made.                   |
| 3  |   | And if we could go to page 10, please. And    |
| 4  |   | there's a bullet a series of bullet points    |
| 5  |   | under the table there. And, Mr. McGuire, you  |
| 6  |   | recall there presenting those compliance      |
| 7  |   | statistics to the committee?                  |
| 8  | A | I do.   |
| 9  | Q | And those are consistent generally consistent |
| 10 |   | with your own the numbers that you had as     |
| 11 |   | well?   |
| 12 | А | That's right. I did a quick check of the      |
| 13 |   | figures and they are consistent with the ones |
| 14 |   | that I derived.                               |
| 15 | Q | Okay. And you'll note that at the first point |
| 16 |   | under the bullet under the:                   |
| 17 |   | "FINTRAC informed the Committee that it:      |
| 18 |   | - Has assessed the accounting sector to       |
| 19 |   | be a low-risk sector. Higher-risk             |
| 20 |   | sectors, such as casinos, would be            |
| 21 |   | subject to more regular, cyclical             |
| 22 |   | exams."                                       |
| 23 |   | Is that what you were referring to earlier?   |
| 24 | А | That was, yes.                                |

Q Okay. And if we look down at the second,

25

| 1  |   | third fourth bullet point there. There's a        |
|----|---|---|
| 2  |   | reference to FINTRAC believing that some          |
| 3  |   | accountants and firms have not realized they are  |
| 4  |   | covered under the legislative requirements. Do    |
| 5  |   | you recall that perspective being shared by       |
| 6  |   | FINTRAC?  |
| 7  | А | I do.   |
| 8  | Q | And then if we look down the sixth sorry, the     |
| 9  |   | seventh bullet point, is FINTRAC "did not believe |
| 10 |   | that the accounting sector has ever filed a       |
| 11 |   | Suspicious Transactions Report." Do you recall    |
| 12 |   | that?   |
| 13 | А | I do. At that point we had asked them to come.    |
| 14 |   | We had a series of questions that we had put to   |
| 15 |   | FINTRAC in advance of them arriving. One of       |
| 16 |   | them was asking for suspicious transaction        |
| 17 |   | statistics and a flavour of what had been         |
| 18 |   | reported. And he had come with that point         |
| 19 |   | suggesting that none had been filed and           |
| 20 |   | therefore he couldn't provide a summary of        |
| 21 |   | those. But I hasten to point out that you'll      |
| 22 |   | see that, you know, in later parts of my report   |
| 23 |   | you'll see that some had been reported by that    |
| 24 |   |   |

MR. ISAAC: Thank you. I don't have any further

25

| 1  |   | questions about this document. If we could go     |
|----|---|---|
| 2  |   | back to Mr. McGuire's report, please.             |
| 3  | Q | And that is what I'd like to turn to now, which   |
| 4  |   | is the question of the level of suspicious        |
| 5  |   | transaction reporting. And if we could go to      |
| 6  |   | paragraph 72 of your report.                      |
| 7  | A | Certainly.  |
| 8  | Q | And here this portion of your report,             |
| 9  |   | paragraphs 72 through 76, addresses this question |
| 10 |   | of the level of STR reporting from the accounting |
| 11 |   | sector. And what has been if you could            |
| 12 |   | describe the level of STR reporting to date from  |
| 13 |   | the accounting sector.                            |
| 14 | A | It's been sparse. You know, Mr. Isaac, the        |
| 15 |   | suspicious transaction reports are seen as a key  |
| 16 |   | outcome of the system working. You know, the      |
| 17 |   | idea is that if you're ID'ing your client and     |
| 18 |   | you understand who they are and you monitor       |
| 19 |   | their transactions over time, you are in a very   |
| 20 |   | good position to identify suspicious              |
| 21 |   | transactions. And so the absence of suspicious    |
| 22 |   | transactions, you know, the first port of call    |
| 23 |   | is to suggest that, you know, the system isn't    |
| 24 |   | designed properly. That the way somebody's        |
| 25 |   | going about something isn't right, they're not    |

| 1  |   | identifying the right client, they're not        |
|----|---|--|
| 2  |   | understanding their activities properly, they're |
| 3  |   | not monitoring them intensely enough.            |
| 4  |   | The point of suspicious transaction reports      |
| 5  |   | is to provide the intelligence to FINTRAC to do  |
| 6  |   | with the job. And extent to which that outcome   |
| 7  |   | isn't achieved is depriving intelligence units   |
| 8  |   | of the intelligence it needs to perform its      |
| 9  |   | function.  |
| 10 | Q | Thank you. And I won't take you through those    |
| 11 |   | numbers, but you do summarize at paragraphs 74   |
| 12 |   | and 75 the numbers of STRs that had been filed   |
| 13 |   | from the sector; is that right?                  |
| 14 | А | Yeah, that's right. You know, we're down to      |
| 15 |   | the last statistic we had was at 2018 when a     |
| 16 |   | single suspicious transaction report was filed   |
| 17 |   | across the entire accounting sector.             |
| 18 | Q | And what has been the FATF's assessment of the   |
| 19 |   | adequacy of that level of reporting in its       |
| 20 |   | evaluation of Canada's regime?                   |
| 21 | А | When they their last examination, to quote       |
| 22 |   | them, they said, you know, looking at            |
| 23 |   | paragraph 75:                                    |
| 24 |   | "The accountants' level of awareness of          |
|    |   |  |

AML/CTF is quite low."

| 1  |   | And:  |
|----|---|---|
| 2  |   | "The fact that no STRs have been filed by         |
| 3  |   | accountants and BC notaries"                      |
| 4  |   | In the period in that period they were            |
| 5  |   | looking at.                                       |
| 6  |   | " and the low number of STRs received             |
| 7  |   | from the real estate sector raise                 |
| 8  |   | [concern]."                                       |
| 9  | Q | Thank you. And what does the level of you've      |
| 10 |   | averted to this already, but what does the level  |
| 11 |   | of suspicious transaction reporting among         |
| 12 |   | accountants tell you about the effectiveness of   |
| 13 |   | Canada's AML regime? I mean, one inference you    |
| 14 |   | could draw is that is just an accurate reflection |
| 15 |   | of the exposure of accountants in Canada to       |
| 16 |   | suspicious transactions. What is your what is     |
| 17 |   | your assessment? What inferences do you draw      |
| 18 |   | from these statistics?                            |
| 19 | A | I don't get to that place. You know, as I         |
| 20 |   | mentioned before, given the extent of money       |
| 21 |   | laundering in the country I expect that there is  |
| 22 |   | accountant involvement or view of these           |
| 23 |   | activities.                                       |
| 24 |   | I believe there are two sources three             |
| 25 |   | principal reason why the suspicious transaction   |

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| 1 | reporting isn't happening. One is that, you |
|---|---|
| 2 | know, there is a lack of understanding that |
| 3 | there are obligations involved.             |
| 4 | Second, that the qualifying activities a    |

Second, that the qualifying activities are defined so narrowly that even when accountants observe the activity, they don't report because the qualifying activity standards don't occur.

And then, three, because there is no consequence for not reporting because of the low level of examinations and the complete absence of any administrative penalty applied to any accounting firm that I know of.

There's no statistics from FINTRAC that I've seen that shows that there's been any penalty applied to an accounting firm since they start the applying penalties in 2009. And I would point out that, you know, even when you look at the level of deficiencies that I'm talk about, and the deficiencies when they talk about foundational items, those pillars, these were serious deficiencies, and yet I examined the discipline cases from Ontario and BC CPA associations and found no reference to anti-money laundering deficiencies among those discipline cases. So, you know, as I say, it

| 1  |   | appears as though there's no consequence to not  |
|----|---|--|
| 2  |   | report it.                                       |
| 3  | Q | Now, you did mention earlier how these numbers   |
| 4  |   | may compare. And I appreciate it's not a         |
| 5  |   | scientific comparison given the different        |
| 6  |   | economies and perhaps some different practice    |
| 7  |   | scope, but in terms of looking at other          |
| 8  |   | jurisdictions, you know, how are these numbers   |
| 9  |   | generally consistent with what other             |
| 10 |   | jurisdictions that have accounting sector        |
| 11 |   | reporting under their AML regimes?               |
| 12 | А | Excellent question. That is when I was           |
| 13 |   | looking into this after having created the first |
| 14 |   | version of this report, you know, that was the   |
| 15 |   | principal question I had was, you know, is this  |
| 16 |   | being done well somewhere else. And, you know,   |
| 17 |   | there are a few jurisdictions that stand out as  |
| 18 |   | having truly embraced the FATF standards, the    |
| 19 |   | recommendations on this subject. The UK is the   |
| 20 |   | best at this so far. And as I say, you know,     |
| 21 |   | they're tending towards a level of 5,000         |
| 22 |   | suspicious transaction reports a year.           |
| 23 |   | Their structure is different. They actually      |
| 24 |   | have far more accounting bodies to deal with.    |

They've developed an office of professional

25

| 1  | supervision related to just anti-money           |
|----|--|
| 2  | laundering where there is an intense amount of   |
| 3  | examination and close tracking of the            |
| 4  | progression in firms.                            |
| 5  | The other thing they do that I think is a        |
| 6  | fascinating concept we'd do well to adopt is the |
| 7  | concept of a money laundering reporting officer. |
| 8  | And in speaking with my old colleagues in the UF |
| 9  | about how this played out over time, the money   |
| 10 | laundering reporting officer is an independent   |
| 11 | role within a financial institution that has     |
| 12 | protections against whistle-blower style         |
| 13 | protections but has personal liability for       |
| 14 | failure to report. And so what happens in        |
| 15 | these in especially, you know, mid to larger     |
| 16 | size accounting firms is that this individual is |
| 17 | appointed and has a budget and will actually     |
| 18 | look into the affairs of other of their partners |
| 19 | and actively look to identify what might be      |
| 20 | suspicious to independently report it.           |
| 21 | I think that function is making a big            |
| 22 | difference towards the statistics. Belgium       |
| 23 | reports in the hundreds every year. Norway       |
| 24 | similarly. Bermuda has taken amazing steps to    |
| 25 | increasing the reporting of its country. So      |

| 1  |   | ours I just you know, seeing the number          |
|----|---|--|
| 2  |   | of years where there are no reports is           |
| 3  |   | disheartening to me.                             |
| 4  | Q | Mr. McGuire, the final part of your report that  |
| 5  |   | I'd like to take you to is the recommendations   |
| 6  |   | portion. And that is begins at paragraph 85      |
| 7  |   | of the report. Sorry, 86.                        |
| 8  | А | Yeah. Thank you. You know, the first one is a    |
| 9  |   | simple one. I think we need to focus on we       |
| 10 |   | need to focus on all the folks that perform      |
| 11 |   | these services. We need to align with the FATF   |
| 12 |   | definition and not focus necessarily just on     |
| 13 |   | those that have designations. I think that's     |
| 14 |   | you know, that would help us align with their    |
| 15 |   | approach technically and it would cover a wider  |
| 16 |   | scope of folks.                                  |
| 17 |   | All FATF accounting services should be           |
| 18 |   | subject to suspicious transaction reporting.     |
| 19 |   | There's you know, since we have as, you          |
| 20 |   | know, my colleague from CPA Quebec pointed out   |
| 21 |   | in one of her articles tab 32, I think you       |
| 22 |   | know, we have a front seat to this show and      |
| 23 |   | we're in a great position to report. And         |
| 24 |   | whether we're conducting an audit or involved in |
| 25 |   | tax, we are in a wonderful position to           |

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1 understand what unusual looks like.

You know, the specified activities should be subjected to ongoing sanctionless screening against Canadian sanctions. That, you know, if we're involved in payments or giving advice around payments and systems, we should be looking to make sure that the people that we're dealing with aren't people that for a policy reason Canada has issue with.

90 is one that I would be very keen on is the idea of a registry of folks that perform the qualifying activities. In large parts that we know the population of those that do and that FINTRAC -- improve FINTRAC's ability to keep tabs on those and to conduct examinations even beyond those with designations.

You know, in the -- I mentioned that I've looked at the countries that have been successful in increasing their suspicious transaction reporting numbers and with their technical compliance and with their outcomes with FATF. And what they have in common is the agreements between the financial intelligence unit and the self-regulatory organizations to share intelligence so much so that in Bermuda

| 1  | their accounting their primary accounting        |
|----|--|
| 2  | body is the recipient of disclosures from their  |
| 3  | financial intelligence unit.                     |
| 4  | And imagine the power of having that             |
| 5  | intelligence in trying to in dealing with        |
| 6  | maintaining the fitness of your membership. I    |
| 7  | see that as a very powerful idea. And the        |
| 8  | sharing of that risk intelligence would help     |
| 9  | self-regulatory organizations educate their      |
| 10 | membership and ideally help with some more       |
| 11 | common ground in terms of the way risk           |
| 12 | assessments are approached.                      |
| 13 | Listen, 92 is controversial. I'm sure it         |
| 14 | suggests that self-regulatory organizations      |
| 15 | should conduct should include in their           |
| 16 | practice inspections compliance with anti-money  |
| 17 | laundering standards and not just FINTRAC. And   |
| 18 | I say this with a fair bit of precedent in hand. |
| 19 | You know, you look at, for example, credit       |
| 20 | unions where FINTRAC conducts a regulatory       |
| 21 | analysis and the deposit insurer or the or       |
| 22 | the regulator of credit unions in FSRA in        |
| 23 | Ontario, FICOM in BC, conducts anti-money        |
| 24 | laundering analysis for prudential purposes to   |
| 25 | understand the risk of the profession of what's  |

| <pre>being conducted.</pre> | ing conducted. | 1 |
|-----------------------------|----------------|---|
|-----------------------------|----------------|---|

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And it should at least include -- even, you know, the law society is a wonderful group that conducts analysis of trust accounts or activity and conducts anti-money laundering analysis.

You know, this could be a very easy win, I think.

As a CPA I have to fill out an annual declaration form about the professional development that I do. I have to describe the sorts of activities I'm involved with. I think it would be useful during that process a self-regulatory organization also required of its members to declare its involvement in triggering activities, so it can isolate and at least know the population that it's dealing with in terms of anti-money laundering vulnerabilities.

In 94 I talk about how I would like self-regulatory organizations to require members to self-report FINTRAC cited deficiencies. In some of the submissions I have seen since my report it appears that it may actually be a requirement, although in practice I wonder if that's known by members and could be made more

1 explicit.

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I do point out that, you know, there are deficiencies that FINTRAC has observed that are serious in nature, and I can find no related disciplinary case. That may mean that it wasn't considered serious enough to publish, but I have no information to be able to conclude otherwise.

The international standards suggest that there should be guidance. And both the international accounting standards and international AML standards suggest that there should be guidance with respect to handling the property of others, which I understand is underway.

There should be, you know, more guidance and references in the practice materials, including the practitioners' toolkit where it is a toolkit that's prepared by the institute that is designed to help a practitioner figure out how to operate their business, and there is no AML guidance within it or sparse AML guidance within it. If the guide is updated and provides more workable tools, that may be a useful supplement there.

And then (d) is prohibit the acceptance of

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| 1 | significant amount of cash in a way that mirrors |
|---|--|
| 2 | the law society rules. I think that would go a   |
| 3 | long way to increasing the perception of         |
| 4 | management at risk at least.                     |

The last recommendations I have here are for the operations of FINTRAC. It's clear from my report I'm no fan of the risk-based approach guidance for accountants. What they call is a workbook is not a workbook. A workbook should enable to firm to be able to document its risks in a systemic and decision-logic driven way, in a way that's informative. There are too many anecdotal examples. And, you know, when it comes down to it if we have a limited class of qualifying activities, the risk assessment could easily take reach of those activities and suggest what risks are associated and what measures might be taken to deal with those risks.

I mentioned that, you know, it would be useful if self-regulatory organizations would be disclosure recipients of FINTRAC so that the self-regulatory organizations have that intelligence, both from a macro level and from their ability to maintain the fitness of the

| 1  | membership. And clearly there needs to be more     |
|----|--|
| 2  | examinations in the sector to be able to ensure    |
| 3  | compliance and understanding and to lead to more   |
| 4  | consistent compliance results when examinations    |
| 5  | occur.   |
| 6  | MR. ISAAC: Thank you, Mr. McGuire.                 |
| 7  | Mr. Commissioner, those are all of my              |
| 8  | questions for the witness.                         |
| 9  | THE COMMISSIONER: All right. Thank you, Mr. Isaac. |
| 10 | I think now we have Mr. Pratte on behalf of the    |
| 11 | Professional Accountants of Canada.                |
| 12 | MR. PRATTE: Thank you, Mr. Commissioner.           |
| 13 | THE COMMISSIONER: Yes. Thank you, Mr. Pratte.      |
| 14 | EXAMINATION BY MR. PRATTE:                         |
| 15 | Q Mr. McGuire, can you see me and hear me okay?    |
| 16 | A Perfectly. Thank you, Mr. Pratte.                |
| 17 | Q All right. Thank you. And I am a bit low tech,   |
| 18 | so you'll forgive me if I have I'm not quite       |
| 19 | as adept as Mr. Isaac in taking you to pieces of   |
| 20 | evidence. We had actually no good deed goes        |
| 21 | unpunished.  |
| 22 | MR. PRATTE: We've prepared a compendium,           |
| 23 | Mr. Commissioner, to try to ease our way to a      |
| 24 | few of the documents I want to take the witness    |
| 25 | to. I understand that your commission functions    |

Matthew McGuire (for the Commission) Exam by Mr. Pratte

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A Yes.

| 1  |   | more efficiently than I, and so what we are       |
|----|---|---|
| 2  |   | trying to do is I will refer to the compendium    |
| 3  |   | that I have but I don't think it's in the         |
| 4  |   | Commission's hands per se, although counsel has   |
| 5  |   | it. And my colleague Ms. Effendi or               |
| 6  |   | Ms. Krajewska will refer to the document number   |
| 7  |   | in your record and put it up. And I hope that     |
| 8  |   | that will work out sufficiently, efficiently.     |
| 9  | Q | Is that okay with you, Mr. McGuire?               |
| 10 | A | It suits me fine. Thank you.                      |
| 11 | Q | All right. Thank you. And I don't think           |
| 12 |   | actually in anything I'll show you there will be  |
| 13 |   | any surprises. Some the documents my friend has   |
| 14 |   | already taken you to.                             |
| 15 |   | So, sir, first of all, you know the               |
| 16 |   | organization that I represent since you were a    |
| 17 |   | consultant to it, a member of the committee that  |
| 18 |   | you referred to, between around about 2013 to     |
| 19 |   | 2016. Right?                                      |
| 20 | A | That's right.                                     |
| 21 | Q | And you know that as we'll get discuss in a       |
| 22 |   | bit, that organization represents around about    |
| 23 |   | 217,000 chartered professional accountants in the |
| 24 |   | country?  |
|    |   |   |

| 1  | Q | And just from what you said a little earlier just |
|----|---|---|
| 2  |   | referring to BC, I think that you said there were |
| 3  |   | about 80,000 people in that province who call     |
| 4  |   | themselves or represent themselves to be          |
| 5  |   | accountants. And that the chartered professional  |
| 6  |   | accountants are a subset of that; is that right?  |
| 7  | А | Yes.  |
| 8  | Q | And would I be correct in suggesting to you that  |
| 9  |   | roughly the proportions would be out of that      |
| 10 |   | 80,000 that roughly about a third would be        |
| 11 |   | chartered professional accountants?               |
| 12 | А | That's what I read from the CPA BC materials,     |
| 13 |   | yes.  |
| 14 | Q | And based on your long-term experience you agree  |
| 15 |   | with those numbers? I mean, roughly speaking      |
| 16 |   | we're not arguing about percentage points here.   |
| 17 | А | Sure. Sure.                                       |
| 18 | Q | And would that be true as well, so far as you     |
| 19 |   | know, nationally? That is to say that there are   |
| 20 |   | a lot more non-chartered professional accountants |
| 21 |   | who call themselves accountants than there are    |
| 22 |   | those who are accredited?                         |
| 23 | A | Yeah, I would agree with that. Sure.              |
| 24 | Q | Okay. Now, just before we get into your report,   |

I just want to make sure because I know you filed

| 1  |   | a revised corrected report, I think it was       |
|----|---|--|
| 2  |   | roughly last week. But do you have any further   |
| 3  |   | corrections or additions to make to your revised |
| 4  |   | report today?                                    |
| 5  | A | You would have noticed yes. So you would         |
| 6  |   | have noticed that in one of the quotes that I    |
| 7  |   | recited from the FATF the last word was          |
| 8  |   | "control" in my report and it said "concern"     |
| 9  |   | I think it should have read "concern."           |
| 10 | Q | Can you tell me where that is exactly, sir, so I |
| 11 |   | know.  |
| 12 | А | Sure. Bear with me, please.                      |
| 13 | Q | Yeah, yeah, of course.                           |
| 14 | А | That was at the end of paragraph 75.             |
| 15 | Q | 75. And sorry, which line was that? Oh,          |
| 16 |   | "control." Yeah. Raise concern. Yes.             |
| 17 | А | And then the other point that I became aware of  |
| 18 |   | subsequently, there is a footnote of mine that   |
| 19 |   | was about research conducted by a fellow named   |
| 20 |   | Salehi. Let me just find that for you. And he    |
| 21 |   | had suggested in his research that the US, UK    |
| 22 |   | and Australia subjected accountants to           |
| 23 |   | suspicious transaction reporting in respect of   |
| 24 |   | auditing, and that was hat he had said in his    |
| 25 |   | research. Just to make sure I went back and      |

2.4

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1 checked, and he was wrong. There's limited 2 circumstances in the US where that is the case. 3 This is footnote 14 on page 21, Mr. Pratte. 4 Q. Thank you. So just so that I -- footnote 14. So 5 in United States it's not quite so as much as the UK and Australia; is that correct? 6 7 Α Yeah. Well, Australia they have proposed 8 extensive accounting coverage rules, but they are not in place yet. 9 10 Okay. 0 So that was just in his research. 11 Α 12 Right. Okay. So just so I understand the scope 0 13 of it, since my friend took you to -- out of 14 Canada, a little trip around the world. UK that 15 is accurate, Australia that's to come and United 16 States it's really not accurate so far as you can 17 tell; is that right? 18 That's right. In a limited fashion and not Α 19 enough to say -- not enough to make that blanket 20 statement. 21 Q Okay. Thank you. And is that it? 22 Those are my corrections. Α 23 Q Can I take you -- just because I'll take you to

that a little later. There might be one I think

that is probably just a typo at paragraph 10.

2.4

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1 And might as well, since we are in the correcting 2 business, check that out. 3 Α Sure. 4 Q And just give me a moment. I had it. Okay. 5 Yeah. It's sentence number 3, yeah. Those who do not 6 Α adhere to the relevant standards and laws. 7 8 That's right. Q Rather than "those who do adhere." Yes. I read 9 Α that last night. Thanks. 10 11 Okay. Just -- now, I didn't make the correction 0 12 in my own copy. I'm looking where? 13 It's in paragraph 10. Α You mean line number 3? 14 0 15 Line number 3, yes. Α 16 Yeah. Okay. Thank you. All right. And can you Q confirm for me, then, that you have included in 17 18 this report then, this extensive report all that 19 you deemed important and relevant to justify your 20 opinions and conclusions and recommendations? 21 Α Yes. 22 Q And would you agree with me that in an expert 23 report such opinions and recommendations should

be based on evidence and fact rather than

suspicion?

| 1  | А | I think recommendations should be based on the    |
|----|---|---|
| 2  |   | best available knowledge.                         |
| 3  | Q | Right. And if there is no actual fact or          |
| 4  |   | evidence to support a conclusion, an alleged      |
| 5  |   | conclusion of fact, then that remains a           |
| 6  |   | hypothesis but it is not a factual conclusion.    |
| 7  |   | Do you agree with that?                           |
| 8  | А | So the recommendation is based on a hypothesis,   |
| 9  |   | not a conclusion if there isn't evidence. Sure.   |
| 10 | Q | All right. And can I just you went through        |
| 11 |   | some extensive recounting, as is completely       |
| 12 |   | appropriate of course, of your background. But    |
| 13 |   | we've talked also quite a bit about legal norms.  |
| 14 |   | Are you a lawyer?                                 |
| 15 | A | I am not.   |
| 16 | Q | Now, I just want to begin our discussion by       |
| 17 |   | making sure I understand the scope of and the     |
| 18 |   | basic structure of your report. Your report is    |
| 19 |   | entitled "Report on the Accountants Money         |
| 20 |   | Laundering and Anti-Money Laundering." But just   |
| 21 |   | so that I understand, it's not solely focused on  |
| 22 |   | accountants and the role they play in the system  |
| 23 |   | but also on other actors, regulators,             |
| 24 |   | governments, enforcement agencies; is that right? |
| 25 | А | Yes.  |

1 Right. So for example -- and you've discussed Q 2 that with my friend, Mr. Isaac at some length. You talk a lot about the role of FINTRAC and 3 4 improvements you would like to -- for them to 5 make to their function and the way they discharge their responsibilities; right? 6 7 Α Yeah, insofar as they relate to the regulation 8 of accountants for money laundering purposes. 9 Sure. 10 Right. And you also address in some detail in 0 11 your report the role of -- I don't think you used 12 that word, but it's really the role of the 13 government or the legislator in defining the 14 scope of the federal law. For example, should it 15 only apply to the regulated professions or to the 16 greater number of regulators -- sorry, of accountants, so-called, the extent to which 17 18 suspected transactions should be -- or triggering 19 activities should be defined, those kinds of 20 things. Those are legislative scope measures; 2.1 right? 22 Α Yeah, when you look at the list of -- the reason 23 that I organized things that way is around those 2.4 three questions that were put to me; right? 25 Because the second question was, you know, how

| 1  |   | effective are the current anti-money laundering  |
|----|---|--|
| 2  |   | regulations and regulatory practices. So it      |
| 3  |   | does encompass, you know, in my view, then, the  |
| 4  |   | law. So the government what the law that the     |
| 5  |   | government set the law and regulations that      |
| 6  |   | they set and including FINTRAC, which is enabled |
| 7  |   | by that law, and the self-regulatory practices.  |
| 8  |   | So it does that second question elicited         |
| 9  |   | that broader view, I think.                      |
| 10 | Q | Right. I'm just I'm really not arguing with      |
| 11 |   | you. I just want to understand and focus on the  |
| 12 |   | various actors, if I could put it that way. We   |
| 13 |   | have the accountants that you defined very       |
| 14 |   | broadly; right?                                  |
| 15 | А | True.  |
| 16 | Q | And we'll talk about that presently. Another     |
| 17 |   | actor is FINTRAC, which you address some         |
| 18 |   | recommendations and some I'll call them          |
| 19 |   | criticisms, but you focused part of your         |
| 20 |   | attention on them; right?                        |
| 21 | A | Yes.   |
| 22 | Q | Okay. A third would be the role of the           |
| 23 |   | government or legislator in adopting the norms   |
| 24 |   | which you believe are too narrow for the reasons |
|    |   |  |

that you explained well to my friend; right? So

| 1  |   | that's the legislator and government because the  |
|----|---|---|
| 2  |   | government essentially passes the regulations;    |
| 3  |   | right?  |
| 4  | A | Right, right.                                     |
| 5  | Q | The federal government. And then also you've      |
| 6  |   | touched on what I'll call the fourth set of       |
| 7  |   | actors, who are really the provincial regulators, |
| 8  |   | and you touched on that when you came to your     |
| 9  |   | recommendations specifically. Right?              |
| 10 | А | True. Yes.  |
| 11 | Q | Okay. So we're not just talking about individual  |
| 12 |   | accountants or firms of accountants; we are       |
| 13 |   | talking about three at least three other sets     |
| 14 |   | of actors in the system?                          |
| 15 | A | That's right. The system is [indiscernible].      |
| 16 | Q | Okay. Thank you. So now I want to focus my        |
| 17 |   | questions most of my questions on really the      |
| 18 |   | role of accountants as individuals or as part of  |
| 19 |   | firms and what you say about them in terms of     |
| 20 |   | their role in money laundering. And I understand  |
| 21 |   | really I've divided, but I think that is          |
| 22 |   | coincides precisely with what you've said today   |
| 23 |   | on many occasions. But I saw your report as       |
| 24 |   | addressing the role or place of accountants in    |
| 25 |   | two respects. One, are they actually involved in  |

| 1  |   | the criminal activity, either directly or        |
|----|---|--|
| 2  |   | assisting it. And I'm going to turn to that      |
| 3  |   | presently. And the second is are they witnesses  |
| 4  |   | to it and could they do more about stopping it,  |
| 5  |   | denouncing it, reporting it. That kind of thing. |
| 6  |   | Okay?  |
| 7  | A | Yes.   |
| 8  | Q | You think that's a fair way of actually looking  |
| 9  |   | at their place, that is accountants' place, in   |
| 10 |   | the money laundering world?                      |
| 11 | A | I do.  |
| 12 | Q | Okay. All right. So let's start with the first.  |
| 13 |   | And the first being what is the evidence of      |
| 14 |   | accountants actually being directly involved in  |
| 15 |   | money laundering. And here I mean that they are  |
| 16 |   | participating in it directly or assisting it as  |
| 17 |   | opposed to being witnesses and reporting or not  |
| 18 |   | reporting it; okay? Do we understand each other, |
| 19 |   | sir?   |
| 20 | A | We do.   |
| 21 | Q | All right. Now, we've already agreed that there  |
| 22 |   | are many, many more accountants or so-called     |
| 23 |   | accountants than there are chartered accountants |
| 24 |   | in this country, as there are in                 |
|    |   |  |

British Columbia; right?

- 1 A Yes.
- 2 Q And your report really doesn't distinguish when
- 3 you look at the role of accountants either way,
- 4 actually. You speak generally about accountants
- in a very wide way that you've defined and
- 6 addressed with my friend; right?
- 7 A Yes.
- 8 Q And -- but a reader or a listener to these
- 9 proceedings should be careful that whenever you
- speak of "accountant" you do not mean to impugn
- 11 chartered accountants necessarily or at all for
- 12 that matter.
- 13 A That's, you know -- right. I adopt the
- 14 definition from the Financial Action Task Force
- very deliberately because it is the function
- that matters and, in part, the reputation. So I
- 17 think you're right that it should not be read --
- and, you know, even in the criminal cases that I
- 19 cite there's only a handful -- or one or two
- 20 criminal cases I could find where it was a
- 21 professional accountant who was convicted, by
- 22 way of example.
- 23 Q And we'll get to that presently. But I just want
- to be clear, your evidence should be understood
- always when you refer to "accountant" as

A That's true.

| 1  |   | referring to a much larger group than that which  |
|----|---|---|
| 2  |   | would be strictly defined by what you call        |
| 3  |   | professional accountants or members of CPA;       |
| 4  |   | right?  |
| 5  | А | That's right.                                     |
| 6  | Q | Okay. In fact you have a statement which is the   |
| 7  |   | one I took you to at paragraph 10 where you sort  |
| 8  |   | of warn the reader that this shouldn't be seen,   |
| 9  |   | this report, as impugning the profession of       |
| 10 |   | accountants as a whole.                           |
| 11 | А | Certainly not.                                    |
| 12 | Q | Okay. And you also said to my friend that         |
| 13 |   | accounting knowledge, which you said repeatedly   |
| 14 |   | today, you I'll call it a hypothesis, but         |
| 15 |   | maybe you say believe. You believe it's required  |
| 16 |   | in order to assist in these money laundering      |
| 17 |   | operations and the more sophisticated the         |
| 18 |   | operation, the more you believe that accounting   |
| 19 |   | knowledge is required. But as you said as I       |
| 20 |   | understood it, you said that you don't need to be |
| 21 |   | an accountant to acquire the relevant accounting  |
| 22 |   | knowledge? You don't need to be certainly a       |
| 23 |   | professional accountant to have that knowledge;   |
| 24 |   | is that right?                                    |
|    |   |   |

25

| 1  | Q | Right. In fact people that go to business school  |
|----|---|---|
| 2  |   | as you, I'm sure, will know, have to take a       |
| 3  |   | number of accounting courses before they will get |
| 4  |   | an MBA; right?                                    |
| 5  | А | Agreed.   |
| 6  | Q | Right. Okay. So then when you look at the         |
| 7  |   | involvement of accountants in this and again      |
| 8  |   | I'm in my first perspective, that is their actual |
| 9  |   | involvement, your report is divided into two      |
| 10 |   | subsets: the international situations that's      |
| 11 |   | paragraph 14 to 20 and then the Canadian          |
| 12 |   | situation at paragraph 21 to 30. Right?           |
| 13 | А | That's right, yeah.                               |
| 14 | Q | Okay. So when we look at the international        |
| 15 |   | situation, you make statements and this may be    |
| 16 |   | just because my copy is wrong, but there's a      |
| 17 |   | paragraph 6.1 that follows paragraph 13. That is  |
| 18 |   | the first paragraph of section 6. So I'll refer   |
| 19 |   | to page I assume it's intended to be 14, but      |
| 20 |   | it's 6.1 in my copy. You see that? It's the       |
| 21 |   | first paragraph under section 6.                  |
| 22 | А | Yeah, 6.1 is the subheading. Yeah.                |
| 23 | Q | And but there's a paragraph there which, as I see |
|    |   |   |

it, is a paragraph 6.1 and you -- there's a

statement there where you quote from an article

| 1  |   | from Sika and Willmott 1998, which reads in    |
|----|---|--|
| 2  |   | part that's the second part of that paragraph. |
| 3  | А | Yes.   |
| 4  | Q | It says:                                       |
| 5  |   | "Whilst some accountants may be                |
| 6  |   | unwittingly caught up in money laundering,     |
| 7  |   | it is relevant to ask how much of this         |
| 8  |   | activity cannot easily take place without      |
| 9  |   | the active/passive involvement of              |
| 10 |   | accountants."                                  |
| 11 |   | Right? You see that?                           |
| 12 | А | That's right. I see it.                        |
| 13 | Q | And then at paragraph 14 you say in the second |
| 14 |   | line you quote:                                |
| 15 |   | "As anti-money laundering regulations have     |
| 16 |   | increased in many countries, the criminals     |
| 17 |   | place increasing reliance on professional      |
| 18 |   | money laundering facilitators."                |
| 19 |   | You see that?                                  |
| 20 | А | I do see that.                                 |
| 21 | Q | And then it says:                              |
| 22 |   | "The experts reported a significant number     |
| 23 |   | of cases involving lawyers, accountants,       |
| 24 |   | financial advisors, notaries "                 |
|    |   |  |

Et cetera. Do you see that?

| 1  | A | Yes.  |
|----|---|---|
| 2  | Q | And then the Egmont Group at page 3 that you      |
| 3  |   | discussed with my friend at paragraph 15          |
| 4  |   | apparently referred to the increasing use of      |
| 5  |   | accountants and lawyers for money laundering. Do  |
| 6  |   | you see that?                                     |
| 7  | А | Yes.  |
| 8  | Q | So these three statements that I've pointed to    |
| 9  |   | you in those three paragraphs essentially allege  |
| 10 |   | that accountants are involved directly in money   |
| 11 |   | laundering; right?                                |
| 12 | А | Yes.  |
| 13 | Q | Now, I we've looked at all of these articles      |
| 14 |   | and I just want to make sure that I've read       |
| 15 |   | them, but I haven't seen anything suggesting that |
| 16 |   | Canadian professional accountants are involved or |
| 17 |   | cited as examples of such involvement. Would you  |
| 18 |   | agree with that?                                  |
| 19 | А | In the international studies?                     |
| 20 | Q | Yes.  |
| 21 | А | Yeah, nothing in no place did it say              |
| 22 |   | accountant and qualify it as being a              |

24 Q So from those articles whatever they say, one 25 could not draw that there contained evidence that

23

professional accountant that I read.

Q

| 1  |   | Canadian professional accountants are involved in |
|----|---|---|
| 2  |   | money laundering, in Canada or internationally    |
| 3  |   | for that matter?                                  |
| 4  | А | Because they use the term "accountant" they       |
| 5  |   | use the term "accountant" and you wouldn't know   |
| 6  |   | whether it was a professional accountant or not.  |
| 7  | Q | Right. So you so let's just make clear that       |
| 8  |   | we agree from which it follows that one could not |
| 9  |   | conclude that those studies have identified that  |
| 10 |   | Canadian professional accountants are involved in |
| 11 |   | money laundering?                                 |
| 12 | А | They haven't specifically said that. I agree.     |
| 13 | Q | Okay. And then there's one article you refer      |
| 14 |   | to sorry, I forgot that reference. But I'll       |
| 15 |   | come you mention that would apply also to the     |
| 16 |   | Compin article that you reference at              |
| 17 |   | paragraphs 17 and 18. I haven't seen any          |
| 18 |   | sourcing to any case in Canada involving a CPA or |
| 19 |   | professional accountant.                          |
| 20 | A | That's funny it's funny the distinction, you      |
| 21 |   | know, because it like, you use the term           |
| 22 |   | "lawyer" and we all recognize that as being a     |
| 23 |   | lawyer who's called to the bar. An accountant     |
| 24 |   | you just don't have that distinction, I suppose.  |

Right. And seeing as we have twice -- at least

no.

| 1  |   | twice, if not many, so-called accountants when    |
|----|---|---|
| 2  |   | I say so-called I don't mean pejoratively.        |
| 3  | А | Okay. Thanks.                                     |
| 4  | Q | I mean they call themselves accountants but       |
| 5  |   | they're not regulated. But it's important for us  |
| 6  |   | for the regulated profession to make the          |
| 7  |   | distinction. And I just want to make certain      |
| 8  |   | that I understand the literature you referred us  |
| 9  |   | to as not enabling the Commissioner to conclude   |
| 10 |   | that that would necessarily refer to professional |
| 11 |   | accountants as we understand that terminology in  |
| 12 |   | Canada.   |
| 13 | А | It wouldn't necessarily mean that, I agree.       |
| 14 | Q | Right. Now then at paragraph 22 you mention       |
| 15 |   | that Canada is designated by the United States    |
| 16 |   | department as a major money laundering country.   |
| 17 |   | Do you remember that?                             |
| 18 | A | I do.   |
| 19 | Q | Yes. And you refer to a number of reports. But    |
| 20 |   | do you remember anything in that assessment that  |
| 21 |   | refers specifically to CPAs or chartered          |
| 22 |   | accountants or professional accountants in Canada |
| 23 |   | as being involved in money laundering?            |
| 24 | А | No specific references to chartered accountants,  |
|    |   |   |

| 1  | Q | Okay. And Canada is not alone in being thought  |
|----|---|---|
| 2  | £ | of as being a major money laundering country.   |
| 2  |   | or as being a major money raundering country.   |
| 3  |   | All seven members of G7 are in that category,   |
| 4  |   | aren't they?                                    |
| 5  | А | Agreed.   |
| 6  | Q | Yeah. Okay. Let me turn now to the Canadian     |
| 7  |   | situation. And you deal with that, I think, at  |
| 8  |   | paragraphs just make sure I've got the right    |
| 9  |   | spot. It starts at 21 and following. And so     |
| 10 |   | here what I've done, sir, is I've divided the   |
| 11 |   | references you've given the Commission and the  |
| 12 |   | Commissioner essentially in some of the reports |
| 13 |   | and that you have addressed with my friends and |
| 14 |   | the cases you deal with at paragraph 30; right? |
| 15 |   | So you refer to a number of reports, a          |
| 16 |   | couple of articles. I'll deal with those and    |
| 17 |   | then I'll deal with the cases just so you know  |
| 18 |   | where I'm going that you the cases you          |
| 19 |   | mentioned at paragraph 30. Is that okay?        |
| 20 | A | Yes.  |
| 21 | Q | All right. And so again we've looked at         |
| 22 |   | sorry, Mr. McGuire?                             |
| 23 | A | This morning it had mentioned that we weren't   |
| 24 |   | going to be dealing with those other than the   |

package I received this morning suggested that

| 1  |   | those weren't on the list of documents to be put  |
|----|---|---|
| 2  |   | to me today. Has that changed? The cases at       |
| 3  |   | paragraph 30.                                     |
| 4  | Q | Well, you discussed that with my friends. You     |
| 5  |   | discussed those cases.                            |
| 6  | А | No, I agree.                                      |
| 7  | Q | I'm going to ask you questions that are not much  |
| 8  |   | different than what my friend asked you.          |
| 9  | А | Okay. Fair enough. Okay. Thanks.                  |
| 10 | Q | And if look, if there's a problem, you don't      |
| 11 |   | remember something, whatever, we'll deal with it  |
| 12 |   | then; okay?                                       |
| 13 | A | Okay. I just want to make sure I have them at     |
| 14 |   | hand if the questions are specific.               |
| 15 | Q | Yes, of course. Of course. All right. So you      |
| 16 |   | refer to reports by Russell at paragraph 23, Cole |
| 17 |   | and Rodych at 23. Also a speech by Mr. Payne at   |
| 18 |   | 23. 25 I think reports from the Criminal          |
| 19 |   | Intelligence Service of Canada at 21, 23, 25.     |
| 20 |   | FINTRAC analysis. You also refer to Mr. Tupman.   |
| 21 |   | Now, again we've looked at all those              |
| 22 |   | references and we found none that specifically    |
| 23 |   | referenced a CPA or chartered professional        |
| 24 |   | accountant being involved in money laundering.    |
|    |   |   |

Do you agree or disagree?

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1 As far as I remember, none of those documents so Α 2 specify. 3 Q Thank you. And then you -- before I turn to the 4 cases. At paragraph 28 you refer to -- and you 5 addressed this with my friend -- the vulnerability, the risk assessment being put at 6 7 medium. Do you remember that? 8 T do. Α 9 And that's from the Department of Finance. Q here let's -- we'll test my technological skills. 10 11 The document I'd like to show you is an excerpt 12 from that assessment. 13 MR. PRATTE: Ms. Effendi, it's a document at tab 6 14 and particularly page 32, table 3. And, 15 Ms. Effendi or Ms. Krajewska, can you give us 16 the document number for my friends at the Commission. 17 18 MS. KRAJEWSKA: Yes, I can do that. It's 19 Ms. Krajewska speaking. The document number for 20 that is doc 0001522 and it's tab 6 of our 2.1 compendium. So 1522. And it's page 32 of that 22 document. 23 MR. PRATTE: You should have it in front of you. I

guess we'll see it on the screen presently.

MS. KRAJEWSKA: Correct. You just need to scroll

Matthew McGuire (for the Commission) Exam by Mr. Pratte

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1 down to the next page, please. There we go. 2 That is the page. Thank you. MR. PRATTE: All right. I'm wondering if everyone --3 4 can you see that, Mr. McGuire, clearly enough? 5 All right. There we go. Now, are you familiar with that document? 6 0 7 Α Yes. 8 Q Okay. We have four gradations of risk for money 9 laundering; right? Yes. 10 Α 11 Very high, high vulnerability rating, medium Q 12 vulnerability rating and low vulnerability 13 rating; right? 14 Α Yes. 15 And would you agree with me that accountants Q 16 being classed in the medium vulnerability rating 17 are -- there's only one that's lower than that 18 and that's the life insurance sector; right? 19 On this chart, yes. Α 20 Q On this chart. Right. And that's the chart you 21 relied on to say that accountants were medium 22 vulnerability; right? 23 Α That's right. 24 Right. Okay. And if I count when I look at the Q

number of sectors -- like very high

25

| 1  |   | vulnerability, corporations, domestic banks,    |
|----|---|---|
| 2  |   | express trusts, and then high vulnerability,    |
| 3  |   | brick and mortar casinos so on I counted about  |
| 4  |   | 21 distinct sectors that were higher            |
| 5  |   | vulnerability than accountants. Right?          |
| 6  | А | Yeah. I mean, interestingly, you know,          |
| 7  |   | accountants would be providing it's ironic to   |
| 8  |   | me that corporations are shown as being a very  |
| 9  |   | high vulnerability rating and, you know,        |
| 10 |   | accountants are the ones that principally deal  |
| 11 |   | with describing of those corporations, so in    |
| 12 |   | terms of how this was constructed, I yeah.      |
| 13 |   | So I agree with you there are a number before   |
| 14 |   | accountants are listed.                         |
| 15 | Q | Right. But that's the chart you relied on for   |
| 16 |   | the purposes of classifying them as medium in   |
| 17 |   | your report; right?                             |
| 18 | A | Yeah, I reference their rating as medium in the |
| 19 |   | report, yes.                                    |
| 20 | Q | Right. And you'd agree with me that at least    |
| 21 |   | based on that chart, there are many other       |
| 22 |   | institutions and groups that are higher         |
| 23 |   | vulnerability than accountants.                 |
|    |   |   |

That's right.

Okay.

A

Q

- 1 A According to the chart.
- 2 Q Right. And who prepared the chart?
- 3 A The Department of Finance.
- 4 Q Right.
- 5 MS. KRAJEWSKA: Mr. Pratte, before you move on, do
- 6 you want to mark that document as an exhibit?
- 7 MR. PRATTE: Yes. If there are no objections, I'd
- 8 like to mark that as an exhibit. And I don't
- 9 mind, Mr. Isaac, if -- and maybe the whole thing
- is already an exhibit, but I mark the excerpt or
- 11 as you wish.
- 12 MR. ISAAC: I think it would be helpful to maintain.
- 13 I know that there was an issue which we --
- 14 hopefully we don't need to get into in terms of
- 15 the late identification of some records, but I
- think just to make sure that we are tracking the
- documents that the Madam Hearing Registrar has,
- that we could use the index that they have. So
- 19 I think that this is -- the copy that the
- 20 hearing team have is at index 6, document 6 in
- 21 the tab and --
- MS. KRAJEWSKA: Yeah, that's fine. Thank you,
- Mr. Isaac.
- MR. ISAAC: Thank you very much.
- MR. PRATTE: Okay. Just so that I understand,

| 1  |     | though. Does that mean that you're marking it     |
|----|-----|---|
| 2  |     | as new exhibit with a different reference, or     |
| 3  |     | has it already, I guess is my question, sir.      |
| 4  |     | Mr. Isaac.  |
| 5  | MR. | ISAAC: I believe, Mr. Pratte, that that would be  |
| 6  |     | a new exhibit. I have no objection to that        |
| 7  |     | being marked.                                     |
| 8  | THE | COMMISSIONER: So exhibit 396.                     |
| 9  | THE | REGISTRAR: Exhibit 396.                           |
| 10 |     | EXHIBIT 396: Department of Finance Canada -       |
| 11 |     | Assessment of Inherent Risks of Money Laundering  |
| 12 |     | and Terrorist Financing in Canada (2015)          |
| 13 | MR. | PRATTE: Thank you, sir.                           |
| 14 | Q   | And then before I turn to the cases, sir, it's    |
| 15 |     | not part of your examination per se of that       |
| 16 |     | section of your report. You had referred in the   |
| 17 |     | introduction to the German one of the German      |
| 18 |     | reports anyway I think at paragraph 2. Do you     |
| 19 |     | remember that?                                    |
| 20 | A   | Yes.  |
| 21 | Q   | Okay. And again just for completeness, reviewing  |
| 22 |     | that report I found no specific reference to CPAs |
| 23 |     | or professional accountants being involved in     |
| 24 |     | money laundering. Do you disagree?                |
| 25 | A   | I don't recall, actually.                         |

- 1 Q Okay. All right. Let's turn to your reported
- cases which you summarize now at paragraph 30 of
- 3 your report.
- 4 A Yes.
- 5 MR. PRATTE: And there -- it might be helpful,
- 6 Mr. Commissioner, perhaps to put that
- 7 paragraph up on the screen.
- 8 THE COMMISSIONER: Very well.
- 9 MR. PRATTE:
- 10 Q And there are about, I guess, ten cases or so
- that you referred to there, Mr. McGuire.
- 12 A Yes.
- 13 Q Over about a 20-year period; is that right?
- 14 A That's right.
- 15 Q And you yourself have called that at paragraph 30
- 16 anecdotal evidence; right?
- 17 A It is.
- Okay. When we looked at that, in taking all of
- the cases we found only one or two that involved
- 20 CPAs, or chartered professional accountants. And
- first one is R v. Neilson which is (b) in your
- list, and the most recent one, 2020.
- 23 A Yes.
- Q Okay. You're familiar with that case?
- 25 A I am.

| 1  | Q | And do you know what happened to Mr. Neilson in   |
|----|---|---|
| 2  |   | terms of his professional designation?            |
| 3  | A | I don't know.                                     |
| 4  | Q | Okay. And then when I look at all of the others,  |
| 5  |   | the only other case there was a chartered         |
| 6  |   | accountant or a CPA but that was became a         |
| 7  |   | later designation, is the Loewen case at (h), but |
| 8  |   | that's a 1999 case.                               |
| 9  | А | I might include PacNet in that discussion.        |
| 10 | Q | Okay. Let's talk about PacNet, then, at the       |
| 11 |   | moment. The and that is contained at              |
| 12 |   | sorry. You don't refer to PacNet in there?        |
| 13 | A | I do, (c).  |
| 14 | Q | Yeah, (c). So I thought maybe we misread this,    |
| 15 |   | but I thought at the moment that first of all     |
| 16 |   | that the firm was not specifically identified; is |
| 17 |   | that correct?                                     |
| 18 | A | That's correct. It was called they referred       |
| 19 |   | to it as the public accounting firm as being      |
| 20 |   | ABC Accounting Limited or something similar.      |
| 21 | Q | And the at that point what we're this is          |
| 22 |   | about, at least based on the reports you've       |
| 23 |   | cited, is effectively an inter-preservation order |
| 24 |   | being issued to freeze funds that were being held |
|    |   |   |

by that accounting firm; right?

25

1 Right. About a sanctioned entity. Α 2 0 Sorry? 3 Α The accounting firm was holding -- the 4 accounting firm was holding funds of PacNet, 5 which was a sanctioned entity at the time. So it was --6 Right. But there are no proceedings that I could Q 8 see reading this case against the accounting firm 9 as having in any way been involved or being 10 charged with money laundering at this stage. 11 That's problematic, isn't it? Α 12 Pardon me? 0 13 It's problematic, I would say. Yes. Α 14 Well, but one cannot draw from this case that the 0 15 accounting firm was a defendant in a money 16 laundering criminal proceeding. 17 Α No. But they processed funds for a sanctioned firm which on the face of it would seem to be a 18 19 criminal act. 20 Well, but they haven't been charged for that, Q 21 sir, have they? 22 Α You know, I think that is the point of the 23 Russell article that I include, which is that, 2.4 you know, there is a scarce number of chartered

and even scarcer number of convictions in Canada

| 1  |   | for money laundering. And the articles you        |
|----|---|---|
| 2  |   | know, German reports which are referenced also    |
| 3  |   | talk to the limited resources of enforcement      |
| 4  |   | functions in that province at all. So I don't     |
| 5  |   | draw any conclusions by the absence of charges    |
| 6  |   | or convictions.                                   |
| 7  | Q | But we certainly can't draw the conclusion that   |
| 8  |   | they are guilty, can we?                          |
| 9  | А | No. It would be improper for me to decide that    |
| 10 |   | they're guilty, but the facts that were           |
| 11 |   | described you know, the entity not having a       |
| 12 |   | vessel to accept the money on its own used its    |
| 13 |   | accounting firm and trusted it. The anecdote      |
| 14 |   | or the point of this case I think that was        |
| 15 |   | useful to me was to understand that accounting    |
| 16 |   | firms were or at least one accounting firm        |
| 17 |   | was holding funds on behalf of their client,      |
| 18 |   | which is to say that it occurs.                   |
| 19 | Q | I suggest to you, sir, that in the ten or so      |
| 20 |   | cases that you referred to, we have one case of a |
| 21 |   | CPA since the new law became into effect in       |
| 22 |   | around 2000 being involved in money laundering.   |
| 23 |   | Do you agree or disagree?                         |
| 24 | A | There's one so one case where the accountant      |

was explicitly cited -- charged, I suppose,

| 1  |   | being involved in money laundering. Sure.         |
|----|---|---|
| 2  | Q | Yes. And since we agreed at the beginning that    |
| 3  |   | the exercise here should be one that is based not |
| 4  |   | so much on hypothesis but fact, before you can    |
| 5  |   | conclude that accountants and here I'm            |
| 6  |   | specifically referring to professional            |
| 7  |   | accountants or CPAs are involved in money         |
| 8  |   | laundering, I suggest to you that one case is     |
| 9  |   | certainly not a trend of increasing involvement   |
| 10 |   | by professional accountants and money laundering. |
| 11 |   | Do you agree or disagree?                         |
| 12 | A | You know, I did mention that I believe it's       |
| 13 |   | that these cases are anecdotal. There's too       |
| 14 |   | it's too small a subset. The research is          |
| 15 |   | examining too small a subset to be able to        |
| 16 |   | extrapolate those results. You have to make a     |
| 17 |   | conclusion together with all of the other         |
| 18 |   | information including, for example, the           |
| 19 |   | disciplinary cases of the institutes themselves.  |
| 20 | Q | Okay. Well, I'll get to the disciplinary cases,   |
| 21 |   | but we've looked now at the reports and articles  |
| 22 |   | you've cited internationally and domestically and |
| 23 |   | the cases. And since the new legislation came     |
| 24 |   | into force in 2020 we have one conviction of a    |
| 25 |   | CPA; correct?                                     |

- 1 A One conviction, yes.
- 2 Q Yes. And I suggest to you, then, that one
- 3 certainly cannot conclude based on the actual
- 4 evidence that there is an increased trend of
- 5 professional accountants being involved in money
- 6 laundering. Do you agree or disagree?
- 7 A I think I'll agree that insofar as convictions
- 8 give us information about accountant involvement
- 9 in money laundering that that evidence is
- 10 limited.
- 11 Q Well, it's not only limited. It's one case out
- of 220,000 or so?
- 13 A Yeah, I agree with that.
- 14 Q And so certainly you can't conclude that there's
- 15 a systemic problem among professional accountants
- in the way they get involved. And here I mean
- the involvement of actually participating in the
- 18 criminal activity. We'll get to the second
- 19 aspect. There is no evidence that suggests that
- 20 professional accountants, accredited accountants,
- are systemically involved in money laundering in
- this country.
- 23 A Again, I agree because of your distinction of
- 24 professional accountants there.
- 25 Q Thank you. Now, you referred to discipline cases

| 1  |   | and you discussed this with my friend, your       |
|----|---|---|
| 2  |   | footnote 18. In term of Ontario, at footnote 17   |
| 3  |   | you refer to the law society's website. But if    |
| 4  |   | one clicks on that all one gets is hundreds of    |
| 5  |   | discipline proceedings involving all the rules of |
| 6  |   | professional conduct. There's nothing in there    |
| 7  |   | that indicates particular violations of the rules |
| 8  |   | of professional conduct in respect of money       |
| 9  |   | laundering. Is that right?                        |
| 10 | А | So these in footnote 17 I give the link to my     |
| 11 |   | source; right? So for each of BC and Ontario      |
| 12 |   | you would click the link, and at the link there   |
| 13 |   | are various subpages that lay out the publicized  |
| 14 |   | discipline cases of each of those provinces.      |
| 15 |   | You can't there was no effective or               |
| 16 |   | there's no segregation of those cases for money   |
| 17 |   | laundering specifically on either of those        |
| 18 |   | cites.  |
| 19 | Q | Right. So there's nothing, at least for           |
| 20 |   | Ontario CPABC is representing and will deal       |
| 21 |   | with this situation I assume. But I couldn't      |
| 22 |   | find any assistance in your reference to suggest  |
| 23 |   | that CPAs in Ontario were systematically involved |
| 24 |   | in money laundering and breaches of their rules   |
| 25 |   | of professional conduct. You agree or disagree?   |

- 1 A Disagree.
- 2 Q You disagree with me?
- 3 A Yes. Yeah, absolutely. So there's -- the point
- is that I read the cases over a three-year
- 5 period and summarized those cases based on their
- 6 nature. And the point is that -- I guess the
- 7 point I was making with Mr. Isaac which is that
- 8 the cases explain -- in many of the cases they
- 9 explain that an offence took place, so something
- akin to a fraud or a theft or fraudulent
- 11 financial statements, that there was a gain or
- 12 proceeds and that the accountant dealt with
- those proceeds. The failing in those cases was
- 14 the was in many cases the lack of recognition
- of the money laundering aspect of the
- 16 activities. So activities were there that
- 17 constitute money laundering based on the
- description of the cases themselves, but they
- weren't labelled at money laundering cases
- per se.
- Q Well, how do I find that? You cited ten legal
- cases that you say directly involved accountants
- in money laundering and then you referred me in a
- 24 footnote to an undetermined list with no cases
- specifically involved. How do I know that your

| 1  |   | interpretation is correct?                       |
|----|---|--|
| 2  | А | That's a summary of my so if you went through    |
| 3  |   | the disciplinary cases for those three years in  |
| 4  |   | BC, for instance, so look at footnote 18, it     |
| 5  |   | describes the categorization of each of the      |
| 6  |   | cases that I reviewed.                           |
| 7  | Q | When I read paragraph 61 of your report          |
| 8  |   | perhaps we can put that up for the               |
| 9  |   | Commissioner you say:                            |
| 10 |   | "We reviewed the professional discipline         |
| 11 |   | case decisions of Chartered Professional         |
| 12 |   | Accountants of British Columbia and              |
| 13 |   | Chartered Professional Accountants of            |
| 14 |   | Ontario published on their websites for          |
| 15 |   | the years 2017 to 2020 inclusive and found       |
| 16 |   | none related to compliance with Canadian         |
| 17 |   | anti-money laundering or counter-terrorist       |
| 18 |   | financing or sanctions legislation."             |
| 19 |   | Then you only refer to paragraph to              |
| 20 |   | footnote 18. I actually don't see a reference    |
| 21 |   | to well, at 17. How am I supposed to draw        |
| 22 |   | from that that actually you drew the opposite    |
| 23 |   | conclusion from reading these cases that are not |
| 24 |   | specified, i.e., that there are a number of      |
| 25 |   | professional accountants involved in money       |

| 1  |   | laundering?                                       |
|----|---|---|
| 2  | А | I'm not sure I understand your question. The      |
| 3  |   | first point was having reviewed them for the      |
| 4  |   | period specified and they're all available on     |
| 5  |   | that website that none of them appeared to        |
| 6  |   | relate specifically to AML or counterterrorist    |
| 7  |   | financing legislation. So they didn't refer,      |
| 8  |   | Mr. Pratte, to compliance-related matters for     |
| 9  |   | anti-money laundering.                            |
| 10 | Q | But now you're saying you reviewed them and you   |
| 11 |   | don't specify any one of the hundreds of cases    |
| 12 |   | that I would see if I looked at paragraph 17 and  |
| 13 |   | telling me which ones you say, though they're not |
| 14 |   | identified as money laundering, they involve      |
| 15 |   | offences or breaches of professional conduct.     |
| 16 | A | That was the intention of footnote 18, which      |
| 17 |   | explained the offences that were related to       |
| 18 |   | those cases in those periods.                     |
| 19 | Q | Yeah, but that footnote 18 explicitly refers to   |
| 20 |   | only British Columbia.                            |
| 21 | А | Perhaps the Ontario results aren't in that        |
| 22 |   | paragraph or were consolidated. I'd have to       |
| 23 |   | look back. I am sorry.                            |
| 24 | Q | In terms of professional accountants in           |

particular, and maybe we'll come back to that

1 presently, but do they not have obligations under their respective professional obligations to 2 3 report possible breaches of the law up the chain 4 and maybe even quit an assurance engagement, for 5 example, or even report it to the authorities? Yeah. I think you're referring to rule -- yeah, 6 Α there are professional standards that cover 7 reporting. Yes. 8 9 Right. And you also referred to at some point Q the fact that accountants can be used to assist 10 11 money laundering by people who would like, for 12 example, to divert or try to avoid paying taxes 13 because that's one of the challenges in money 14 laundering because you have to declare income and 15 you have to do it in a way that won't kind of 16 give the game away. But don't accountants or 17 anyone who advises under the Income Tax Act also 18 have obligations if they suspect that their 19 services are being used for criminal purposes? 20 Α I'm not that familiar with the Income Tax Act. 2.1 The scope of my point is that -- or the 22 reference to these points is all about the 23 consolidation of intelligence, a single 2.4 financial intelligence unit. You know, the 25 clauses when you look at those rules where -- in

| 1  |   | particular with an insurance engagement where it |
|----|---|--|
| 2  |   | talks about where you're reporting it, it's      |
| 3  |   | reporting to the relevant authorities or and,    |
| 4  |   | you know, through the governance structure.      |
| 5  |   | And, you know, so does that mean FINTRAC. I'm    |
| 6  |   | not sure. And I think the clarity would be       |
| 7  |   | useful in that instance so that, you know, the   |
| 8  |   | financial intelligence unit would have the       |
| 9  |   | benefit of that intelligence to fulfill its      |
| 10 |   | mandate.   |
| 11 | Q | All right. At paragraph 77 of your report you    |
| 12 |   | say, this is on your conclusions on the first    |
| 13 |   | question, you say, and I quote:                  |
| 14 |   | "The role of accountants in money                |
| 15 |   | laundering internationally has been              |
| 16 |   | escalating since the adoption of                 |
| 17 |   | anti-money laundering standards."                |
| 18 |   | Then the first sentence of paragraph 78:         |
| 19 |   | "The extent of accountant involvement in         |
| 20 |   | money laundering changes based on the            |
| 21 |   | sophistication of the organization for           |
| 22 |   | which they're laundering funds and the           |
| 23 |   | degree to which the organization's               |
| 24 |   | activities are illegal. "                        |
| 25 |   | Would you agree with me, Mr. McGuire, that       |

25

Q

| 1  |   | alleging in a report like that that accountants,  |
|----|---|---|
| 2  |   | at least in Canada, are involved in money         |
| 3  |   | laundering is a very serious allegation?          |
| 4  | А | Yes.  |
| 5  | Q | And that before it's made I mean, I understand    |
| 6  |   | making it as a hypothesis, but that before making |
| 7  |   | the allegation as if it had been proven as a      |
| 8  |   | fact, you need more than anecdote?                |
| 9  | A | So this I want to point out that that first       |
| 10 |   | sentence is a summary of the research of          |
| 11 |   | Frédéric Compin, who I reference earlier.         |
| 12 | Q | Well  |
| 13 | А | That talks to so that it says that based on       |
| 14 |   | sophistication of the organization and the        |
| 15 |   | degree to which they're active, that just         |
| 16 |   | that's a summary of the vertical and horizontal   |
| 17 |   | approaches  |
| 18 | Q | But   |
| 19 | А | view of money laundering.                         |
| 20 | Q | Sorry, I didn't mean to interrupt you,            |
| 21 |   | Mr. McGuire. Finish your sentence. I didn't       |
| 22 |   | mean to   |
| 23 | A | No, that's fine. Go ahead.                        |
|    |   |   |

Okay. Well, this is under a section -- it may be

drawn from that, but this is under a section

| 1  |   | entitled "Conclusions." And there you have        |
|----|---|---|
| 2  |   | you set out the three questions you had set out   |
| 3  |   | at the outset of your report, and I read those,   |
| 4  |   | given you put your signature to the end of this   |
| 5  |   | report, as being your conclusions. Is that right  |
| 6  |   | or wrong?   |
| 7  | А | I see it was I mean, I had written it as          |
| 8  |   | being a summary of my report. I suppose I've      |
| 9  |   | used my conclusions as being recommendations,     |
| 10 |   | but I see what you mean. I don't think that       |
| 11 |   | that sentence says the extent of accountant       |
| 12 |   | money laundering involvement in money             |
| 13 |   | laundering in Canada changes based on             |
| 14 |   | sophistication, but I would even agree if it      |
| 15 |   | were that limited. The point is that the ways     |
| 16 |   | that accountants launder money must and           |
| 17 |   | adopting the broad definition of "accountant"     |
| 18 |   | must change based on the sophistication of the    |
| 19 |   | organization and must change based on the degree  |
| 20 |   | to which the organizations or activities are      |
| 21 |   | illegal.  |
| 22 | Q | Okay. I can understand the hypothesis that        |
| 23 |   | you're making, Mr. McGuire, and I can understand  |
| 24 |   | why it may be there's frustration that there's no |
| 25 |   | more evidence, but I'm just trying to make a very |

| 1  |   | narrow point that you may have this hypothesis    |
|----|---|---|
| 2  |   | that it's increased in the last 20 years since    |
| 3  |   | the anti-money laundering legislation has been    |
| 4  |   | adopted, but the fact is that there is no factual |
| 5  |   | evidence to support that conclusion or that       |
| 6  |   | hypothesis.                                       |
| 7  | А | I think I understand your point a little better   |
| 8  |   | now. So based on the international research       |
| 9  |   | based on the international research, based on     |
| 10 |   | the RCMP's reports, based on the FATF reports,    |
| 11 |   | based on, you know, some of the academic studies  |
| 12 |   | there's it's become clear that anti-money         |
| 13 |   | laundering rules have made it more necessary to   |
| 14 |   | have professional knowledge to navigate through.  |
| 15 |   | So when you say, you know, that the role of       |
| 16 |   | accountants has been escalating, and you infer    |
| 17 |   | over the last 20 years since it's been            |
| 18 |   | implemented in Canada, I suppose what I'm saying  |
| 19 |   | is that the role of accountants is based on the   |
| 20 |   | international research escalating over time.      |
| 21 |   | And I agree with you, despite the lack of         |
| 22 |   | there is a lack of convictions in Canada to help  |
| 23 |   | support that that's happening domestically.       |
| 24 |   | It's easy to infer that based on, for             |
| 25 |   | example, the level of reporting in the UK that    |

| 1  |     | they're experiencing that, you know, it's not    |
|----|-----|--|
| 2  |     | that it's not happening here. It's that it's     |
| 3  |     | more likely and I say more likely, not           |
| 4  |     | definitive that it's happening in the same       |
| 5  |     | manner as it is in those other countries and not |
| 6  |     | being reported as often.                         |
| 7  | Q   | But it's still a hypothesis which has not been   |
| 8  |     | proven by actual convictions.                    |
| 9  | A   | Specifically in Canada, I agree with you.        |
| 10 | Q   | Okay. And there was a witness, I'm sure you      |
| 11 |     | followed this, Dr. Katie Benson, that I          |
| 12 |     | understand testified before this Commission      |
| 13 |     | earlier. Did you follow her testimony?           |
| 14 | А   | I was excluded. I knew I was going to be a       |
| 15 |     | witness at that point.                           |
| 16 | Q   | Well, maybe I could put up before you            |
| 17 |     | exhibit 219.                                     |
| 18 | MR. | PRATTE: And if you go to now, maybe you can      |
| 19 |     | help me because I need the page number.          |
| 20 |     | Ms. Krajewska, do you know the page number we    |
| 21 |     | want to refer to?                                |
| 22 | MR. | ISAAC: Mr. Pratte not to jump in, but I might be |
| 23 |     | able to provide the index document so that we    |
| 24 |     | can ease the reconciliation at the end. It's     |
|    |     |  |

the same document as is at tab 9 of the -- of

| 1  |     | Madam Hearing Registrar's index. That won't     |
|----|-----|---|
| 2  |     | assist with the page number.                    |
| 3  | MR. | PRATTE: Yeah, okay. Thank you. I can probably   |
| 4  |     | do that, if you give me a moment.               |
| 5  | MS. | KRAJEWSKA: Thank you, Mr. Isaac. Yes, that's    |
| 6  |     | correct. And if you just scroll down, we put in |
| 7  |     | the introduction but it should be side barred.  |
| 8  | MR. | PRATTE: It's page 115, I think.                 |
| 9  | Q   | And well, it's not side barred, I think. But    |
| 10 |     | if you look at you see five lines from the top  |
| 11 |     | of the page it starts "the involvement of       |
| 12 |     | professionals." Can you read that properly,     |
| 13 |     | Mr. McGuire?                                    |
| 14 | A   | Where it begins "the involvement of             |
| 15 |     | professionals"?                                 |
| 16 | Q   | Yes, can you see that?                          |
| 17 | A   | Yes. She writes:                                |
| 18 |     | "The involvement of professionals in money      |
| 19 |     | laundering, therefore, clearly remains an       |
| 20 |     | under-researched and poorly understood          |
| 21 |     | area."  |
| 22 | Q   | Right. And let's keep going. It says:           |
| 23 |     | "As a result of the construction of             |
| 24 |     | professional facilitation of money              |
|    |     |   |

laundering in official discourse and much  $% \left( 1\right) =\left( 1\right) \left( 1\right)$ 

| 1  |   | of the academic literature, which sees          |
|----|---|---|
| 2  |   | professionals as playing a critical and         |
| 3  |   | increasing role in the laundering of            |
| 4  |   | criminal proceeds, has weak empirical           |
| 5  |   | foundations."                                   |
| 6  |   | You see that?                                   |
| 7  | А | Yes, I categorically disagree with her          |
| 8  |   | conclusion. Just even, you know, last month the |
| 9  |   | UK released its national threat assessment      |
| 10 |   | looking at the accounting services sector. They |
| 11 |   | now have, you know, nearly a hundred thousand   |
| 12 |   | suspicious transaction reports to base their    |
| 13 |   | empirical evidence on and, you know, many       |
| 14 |   | cases many convicted cases about which to       |
| 15 |   | base that information. I don't understand how   |
| 16 |   | she comes to that conclusion.                   |
| 17 |   | I did the work of other academics in her        |
| 18 |   | country, cite specifically Michael Levy whose   |
| 19 |   | materials form part of this part of the         |
| 20 |   | exhibits. I understand also, you know, his      |
| 21 |   | research has been extensive into the actual law |
| 22 |   | enforcement records that show accountant        |
| 23 |   | involvement. I don't have much sympathy for her |
| 24 |   | perspective.                                    |
|    |   |   |

Q All right. I want to make sure, though, that we

25

| 1  |   | understand each other between in terms of         |
|----|---|---|
| 2  |   | accountant involvement here. Remember, we         |
| 3  |   | started with the distinction between involvement  |
| 4  |   | in the sense of actually being involved in a      |
| 5  |   | criminal activity and conducting it oneself or    |
| 6  |   | assisting it knowingly, and then there's          |
| 7  |   | involvement in the second aspect we're presently  |
| 8  |   | going to discuss, i.e., not disclosing suspicious |
| 9  |   | transactions and so forth and so on.              |
| 10 | А | In the UK statistics last year of the roughly     |
| 11 |   | 5,000 STRs that were filed, it was identified     |
| 12 |   | that 25 percent were related to the activity of   |
| 13 |   | accountants themselves who were suspected of      |
| 14 |   | being complicit.                                  |
| 15 | Q | Okay. But we don't have any such evidence in      |
| 16 |   | Canada, do we?                                    |
| 17 | A | No, because we have no suspicious transaction     |
| 18 |   | reporting virtually no suspicious transaction     |
| 19 |   | reporting and virtually no enforcement of the     |
| 20 |   | money laundering laws.                            |
| 21 | Q | So all we can conclude is there's no evidence     |
| 22 |   | that there is, but we certainly can't conclude    |
| 23 |   | from the lack of evidence that they must be?      |
| 24 | А | I understand your position.                       |
|    |   |   |

Q No, but I'm asking you more than that. My

25

| 1  |     | position is completely irrelevant. You do not     |
|----|-----|---|
| 2  |     | agree with me that if there's no evidence we      |
| 3  |     | may not be able to conclude that there's no       |
| 4  |     | involvement but we certainly cannot conclude that |
| 5  |     | there is involvement if there is no evidence?     |
| 6  | А   | You know, I'll meet you as far as there are many  |
| 7  |     | indications that taken together to meet point in  |
| 8  |     | a direction. Is it definitive? No.                |
| 9  | Q   | Okay. Let's turn, then, to the role of CPAs and   |
| 10 |     | what I'll call money laundering prevention.       |
| 11 |     | That's the second aspect, if I can call it that,  |
| 12 |     | of CPA involvement. What do they witness? What    |
| 13 |     | position are they in to assist in prevention of   |
| 14 |     | money laundering. Do you understand the second    |
| 15 |     | point of view I want to talk to you about now?    |
| 16 | A   | I do, yes.  |
| 17 | Q   | Okay. And I want to focus on what I               |
| 18 |     | understand how should I put it the brunt or       |
| 19 |     | the main recommendations that you make to improve |
| 20 |     | this  |
| 21 | THE | COMMISSIONER: I am sorry to interrupt,            |
| 22 |     | Mr. Pratte. Do you want that exhibit still up,    |
| 23 |     | or do you want it taken down?                     |
| 24 | MR. | PRATTE: No, no, it can be taken down. Thank       |

you, Mr. Commissioner.

- 1 THE COMMISSIONER: Thank you.
- 2 MR. PRATTE:
- So I just want to talk to you now about the

  second aspect of your report in terms of the

  failures or flaws in the system and some of the

  recommendations you make.
- 7 A Sure.
- 8 And as I understand it, and you say that at some Q 9 point that really your main criticism is about 10 the design particularly at the federal level of 11 the system; right? It's not to criticize the 12 self-regulated professions or accountants 13 individually; it's really that you think 14 fundamentally the system as designed or 15 legislated is deficient?
- 16 A Absolutely. Yes.
- And that goes to the point that you think the
  accountant being at the moment limited and under
  the federal regime to effectively professional
  accountants is just too narrow; right?
- 21 A Yes. Yes, sir.
- 22 Q And that the scope of triggering activity, again,
- is too narrow?
- 24 A Agreed.
- Q Right. And then you also say that there should

proceed.

| 1  |     | be increased cooperation between FINTRAC and the |
|----|-----|--|
| 2  |     | regulated professions to make the system work    |
| 3  |     | better; right? There should be                   |
| 4  | А   | A good exchange of intelligence at a macro and a |
| 5  |     | micro level. Sure.                               |
| 6  | Q   | Okay. And you also talked about a lack of        |
| 7  |     | awareness. I'll come back to that. But the       |
| 8  |     | your major criticisms about the scope of the     |
| 9  |     | definition of "accountant" and the too narrow    |
| 10 |     | scope of the activities that are covered, that's |
| 11 |     | really a legislative decision of the federal     |
| 12 |     | parliament; right?                               |
| 13 | А   | Yes.   |
| 14 | Q   | It's not for the CPAC to decide and implement    |
| 15 |     | that system?                                     |
| 16 | А   | No, no.  |
| 17 | Q   | Okay. You agree with me; right?                  |
| 18 | А   | I do.  |
| 19 | MR. | PRATTE: Okay. Could we now turn briefly and,     |
| 20 |     | Mr. Commissioner, I don't know if you intended   |
| 21 |     | to take another break. I think I'm about         |
| 22 |     | 52 minutes into my allotted time. I'm confident  |
| 23 |     | that I'll finish within the time but I'm         |
| 24 |     | obviously in your hands as to how you wish to    |
|    |     |  |

| 1  | THE COMMISSIONER: Sure. Is this a time that is      |
|----|---|
| 2  | appropriate to break as far as you're concerned,    |
| 3  | Mr. Pratte?   |
| 4  | MR. PRATTE: Yes, it is sir.                         |
| 5  | THE COMMISSIONER: All right. We'll take             |
| 6  | ten minutes. Thank you.                             |
| 7  | MR. PRATTE: Thank you.                              |
| 8  | THE REGISTRAR: The hearing is adjourned for a       |
| 9  | ten-minute recess until 1:02 p.m. please mute       |
| 10 | your mic and turn off your video. Thank you.        |
| 11 | (WITNESS STOOD DOWN)                                |
| 12 | (PROCEEDINGS ADJOURNED AT 12:53 P.M.)               |
| 13 | (PROCEEDINGS RECONVENED AT 1:02 P.M.)               |
| 14 | THE REGISTRAR: Thank you for waiting. The hearing   |
| 15 | is now resumed. Mr. Commissioner.                   |
| 16 | THE COMMISSIONER: Thank you, Madam Registrar.       |
| 17 | MATTHEW McGUIRE, a                                  |
| 18 | witness for the                                     |
| 19 | Commission, recalled.                               |
| 20 | THE COMMISSIONER: Yes, Mr. Pratte. Yes, Mr. Pratte. |
| 21 | MR. PRATTE: Apologies, Mr. Commissioner. There are  |
| 22 | advantages to in-person hearings.                   |
| 23 | THE COMMISSIONER: Yes, there are.                   |
| 24 | EXAMINATION BY MR. PRATTE (CONTINUING):             |

Q Thank you, Mr. McGuire. Could I just take you

25

| 1  |   | quickly to page 20 of your report. That's the     |
|----|---|---|
| 2  |   | chart that you went through with my friend where  |
| 3  |   | you compared some FATF recommendations and the    |
| 4  |   | state of the Canadian legislation.                |
| 5  | A | Sure.   |
| 6  | Q | And you had a long discussion with my friend      |
| 7  |   | about the definition of "accounting services" and |
| 8  |   | the confusion, as I understood it, that you think |
| 9  |   | follows from the fact that the federal            |
| 10 |   | legislation doesn't specifically define what      |
| 11 |   | providing an accountant's service is or a public  |
| 12 |   | accountant and provincial systems and a narrow    |
| 13 |   | definition of "accountant." But as I review the   |
| 14 |   | 2016 FATF Mutual Evaluation Report, I didn't see  |
| 15 |   | any criticism about how Canada defines            |
| 16 |   | "accountant." Did I miss something?               |
| 17 | А | Fair question. I don't recall.                    |
| 18 | Q | Okay. And just so that I understand your          |
| 19 |   | position correctly just because in my mind anyway |
| 20 |   | it's a bit of a red herring. Once you got if      |
| 21 |   | the federal parliament or the government under    |
| 22 |   | the regulations expanded the definition of        |
| 23 |   | "accountant" to include more than simply the      |
| 24 |   | regulated profession and if it defined more       |
| 25 |   | broadly what it describes as a triggering         |

| 1  |   | activity, then those accountants involved in      |
|----|---|---|
| 2  |   | those activities would have to report or          |
| 3  |   | otherwise be subject to penalties and so forth    |
| 4  |   | regardless of what the provincial regimes would   |
| 5  |   | dictate; right?                                   |
| 6  | A | Yes. And just to go back to your prior            |
| 7  |   | question, the FATF's the position was that        |
| 8  |   | the circumstances in which accountants have to    |
| 9  |   | report suspicious transactions under the          |
| 10 |   | legislation are too limited, which likely         |
| 11 |   | which it can be part of the triggering activity   |
| 12 |   | problem and the definition of "accounting"        |
| 13 |   | problem.  |
| 14 | Q | Well, it didn't specifically criticize Canada for |
| 15 |   | its definition of "accounting."                   |
| 16 | А | It didn't specifically call it out. I agree.      |
| 17 | Q | Okay.   |
| 18 | А | It is a deviation between what they say should    |
| 19 |   | be covered and what is actually covered, but      |
| 20 |   | they didn't call it out, no. I think you're       |
| 21 |   | right.  |
| 22 | Q | Well, okay. You're taking me to somewhere I       |
| 23 |   | didn't really want to go, but if you look at      |
| 24 |   | page 20 in the first row and the second column,   |

"FATF Recommendation." You see that?

25

- 1 A Yes.
- 2 Q And that's where you have your list (a) to (p) of
- 3 activities that you counted?
- 4 A Yes. Right.
- 5 Q I didn't see that actually in the
- 6 recommendations; I saw that in the guidance
- 7 document from FATE.
- 8 A The companion document. Yes.
- 9 Q Right. And that's the guidance and that
- 10 describes -- and I can take you there, if you
- 11 insist. It describes actually the list of
- 12 accounting activities that can be counted as
- accounting activities, but it doesn't say every
- 14 country has to adopt that list. Is that not
- 15 fair?
- 16 A So they say two things. They say that all of --
- 17 the country should consider subjecting all of
- them to suspicious transaction reporting and all
- of them where there are triggering activities to
- 20 the obligations -- to the relevant AML
- 21 obligations.
- Q Well, let's look at it for a minute, then,
- because we're not on the same page, no pun
- intended.
- MR. PRATTE: Could you tell us, Ms. Krajewska, what

| 1  |       | would correspond to FATF guidance to the          |
|----|-------|---|
| 2  |       | accounting profession, paragraph 20, which is     |
| 3  |       | our tab 13, page 23.                              |
| 4  | MS. H | KRAJEWSKA: It's so the guidance from the FATF     |
| 5  |       | is tab 13 of the compendium.                      |
| 6  | MR. I | PRATTE: Ours or the Commission's?                 |
| 7  | MS. H | KRAJEWSKA: Ours, which the Commission has and     |
| 8  |       | has been using. So it's tab 13.                   |
| 9  | MR.   | ISAAC: Nicholas Isaac here, Mr. Pratte. To        |
| 10 |       | assist both of you, that would be tab and the     |
| 11 |       | Hearing Officer. I believe that would be tab 12   |
| 12 |       | of the hearing index as well.                     |
| 13 | MR. I | PRATTE: Okay. Thank you.                          |
| 14 | MS. H | KRAJEWSKA: That's the guidance. And the           |
| 15 |       | recommendations are the tab before that.          |
| 16 | MR. I | PRATTE:   |
| 17 | Q     | Okay. And then if we go to paragraph 20 of the    |
| 18 |       | guidance, if you could just yeah. All right.      |
| 19 |       | And you see there, if we read this, sir, it says: |
| 20 |       | "Professional accountants in public               |
| 21 |       | practice may provide a wide range of              |
| 22 |       | services to a diverse range of clients.           |
| 23 |       | The actual services delivered by                  |
| 24 |       | accountants may vary between jurisdictions        |
| 25 |       | and the examples provided here may not be         |

| 1  |     | applicable in every jurisdiction.                |
|----|-----|--|
| 2  |     | Services may include but not are limited         |
| 3  |     | to the following, though not necessarily         |
| 4  |     | to the same client."                             |
| 5  |     | You see that?                                    |
| 6  | А   | We read that differently, though. You're saying  |
| 7  |     | that the actual services delivered by            |
| 8  |     | accountants may vary and they might so in        |
| 9  |     | other words in some jurisdictions these services |
| 10 |     | might not be relevant to accountants, in others  |
| 11 |     | they may be. We can agree there.                 |
| 12 | Q   | You read that as a recommendation that that's    |
| 13 |     | what it should be defined as                     |
| 14 | А   | The last line says the FATF recommendations      |
| 15 |     | apply to specified activities in R.22, and those |
| 16 |     | fall from the types of activities that could be  |
| 17 |     | conducted by accountants which are enumerated    |
| 18 |     | there.   |
| 19 | Q   | Well, let's look at R.22.                        |
| 20 | А   | I have it up here.                               |
| 21 | MR. | PRATTE: And I don't know, though, for the        |
| 22 |     | purposes of the Commission I'm not sure who      |
| 23 |     | is scrolling up and down.                        |
| 24 | THE | REGISTRAR: Sorry, Mr. Pratte. Do you want me to  |

flip to tab 22?

2.4

25

right?

```
1
           MR. PRATTE: Yes, if you can. Well, it's
 2
                recommendation 22.
 3
                     Ms. Krajewska, can you ask [sic] us what
 4
                that would mean for the Commission. This is our
                tab. So it's tab 22. It reads specifically --
 5
           MS. KRAJEWSKA: It's not tab 22. It's the earlier
 6
                tab. It's tab -- I think it's -- I believe it's
 7
                tab 11. Sorry, tab 12. Tab 12 has the
 8
                recommendation 22 in it. Oh, sorry, that's the
 9
                definition of "accountants." I'm sorry.
10
11
           MR. PRATTE: Sorry, Mr. Commissioner. It would be
12
                16. What we are looking for is the
13
                recommendation 22.
           MS. KRAJEWSKA: It should be ... It's tab 16. Sorry
14
15
                about the delay. It's tab 16 with
                recommendation 22.
16
17
           MR. ISAAC: And just as opposed to interrupting
18
                later, just for the Madam Hearing Registrar, I
19
                think the corresponding in our index is tab 10.
20
           MR. PRATTE: All right. Sorry, Mr. Commissioner.
21
           Q
                If we then look to 22(d).
22
           A
                Yes.
23
           Q
                We have that which is pertinent to professionals,
```

or so-called DNFDPs, including accountants;

| 1  | А | Yes.   |
|----|---|--|
| 2  | Q | And that list is buying/selling real estate,     |
| 3  |   | managing client money, management bank. It's     |
| 4  |   | quite similar to the triggering activities in    |
| 5  |   | Canada. That is where accountants directly       |
| 6  |   | interact with the financial system. Do you       |
| 7  |   | agree?   |
| 8  | А | Yeah. So in respect of your previous question,   |
| 9  |   | right, so the first part of (d) says lawyers,    |
| 10 |   | notaries, other independent legal professionals  |
| 11 |   | and accountants. And so there's and              |
| 12 |   | accountants there isn't defined, but, you know,  |
| 13 |   | the idea that if the guidance enumerates in      |
| 14 |   | my view, if the FATF guidance enumerates         |
| 15 |   | services provided by accountants, then those are |
| 16 |   | accounting services and they're performed by     |
| 17 |   | accountants. Then the 22(d) encompasses all      |
| 18 |   | the services that are listed in the guidance, in |
| 19 |   | my view. And but only the certain                |
| 20 |   | transactions, the customer ID transactions,      |
| 21 |   | apply to these particular functions and it's     |
| 22 |   | encouraged later that the country should         |
| 23 |   | consider applying suspicious transaction         |
| 24 |   | reporting to the full range of accounting        |
| 25 |   | services which I believe are the full range of   |

Q

25

| 1  |   | accounting services enumerated.                   |
|----|---|---|
| 2  | Q | Well, I don't really want to argue semantics with |
| 3  |   | you. Perhaps we can leave it that way. We're      |
| 4  |   | looking at FATF recommendation 22; right?         |
| 5  | А | Yes.  |
| 6  | Q | Okay. And when I look at your comment or          |
| 7  |   | sorry your column in the first row, "FATF         |
| 8  |   | Recommendation," you see that?                    |
| 9  | А | Yes.  |
| 10 | Q | I will not find a corresponding FATF              |
| 11 |   | recommendation with those categories (a) to (p)   |
| 12 |   | per se?   |
| 13 | А | No, it's not directly in the recommendation;      |
| 14 |   | it's incorporated by reference.                   |
| 15 | Q | All right. And then briefly let's talk about      |
| 16 |   | and you've discussed that with my friend, the     |
| 17 |   | insolvency. We see that in fact in the third      |
| 18 |   | column you say:                                   |
| 19 |   | "Definition varies by province.                   |
| 20 |   | Insolvency  |
| 21 |   | is specifically exempted by FINTRAC               |
| 22 |   | guidance."  |
| 23 |   | You see that?                                     |
| 24 | А | Yes.  |

And in fact you know that there is a regulation

25

| 1  |   | coming later this year that will make that        |
|----|---|---|
| 2  |   | explicit. It won't depend simply on the guidance  |
| 3  |   | from FINTRAC; right?                              |
| 4  | A | I am aware.                                       |
| 5  | Q | Sorry?  |
| 6  | A | I am aware.                                       |
| 7  | Q | You're aware of that. And so for good or for      |
| 8  |   | ill, the Government of Canada has considered that |
| 9  |   | insolvency should be exempted. And I suggest to   |
| 10 |   | you that that was in part because there are court |
| 11 |   | supervision mechanisms to protect the system.     |
| 12 |   | You may be dissatisfied with that but that is     |
| 13 |   | what the legislators decided; right?              |
| 14 | А | I agree that I'm dissatisfied with that.          |
| 15 | Q | Well, would you let's split the apple in half     |
| 16 |   | or the pear in half. Would you also agree that    |
| 17 |   | that is what the legislator has decided?          |
| 18 | А | I agree that the legislator has decided that      |
| 19 |   | to remove them, yes.                              |
| 20 | Q | And then in respect of auditing, at page 21 you   |
| 21 |   | say also that audits should be included.          |
| 22 | А | Yes.  |
| 23 | Q | And, but again, the Parliament of Canada at least |
|    |   |   |

its delegate, the Government of Canada by way of

regulation, has maintained that auditing services

1 should be exempted from the regime; correct? 2 Α If for some reason -- not in align with the FATF 3 standards. 4 Q Well, the FATF standards, as you suggest, I think 5 at paragraph 23 strongly recommends that it be included but does not require it. Is that not 6 7 correct? 8 Yes, it strongly recommends it. Α 9 It does not require it? 0 All recommendations are recommendations. 10 Α Well, it's a recommendation. It's not a 11 0 12 requirement, and certainly there's no finding in 13 the 2016 report that Canada is not complying with 14 its obligations because it has accepted auditing. 15 Is that not correct? 16 Α The FATF did not cite Canada on -- in that respect, although they did say, as I pointed out 17 18 earlier and as mentioned in one of my 19 appendices, that they believe that the extent of 20 suspicious transaction reporting isn't 21 expanded -- let me get the specific quotes. 22 Q That it one you correct that it was of concern. 23 Is that not the --2.4 That's -- I mean to say in -- sorry, Α No.

Mr. Pratte. One moment, please.

25

- 1 Q Of course.
- 2 A I'm sorry, I can't find it right now.
- Nevertheless, the point was that there's -- the
- 4 suspicious transaction reporting requirements
- 5 apply to too narrow a field, which is beyond --
- there are two standards; right? There's the
- 7 first standard which applies to ID'ing clients
- and the full spectrum of the AML requirements,
- 9 and then AML requirements -- and then just
- 10 suspicious transaction reporting.
- 11 Q Okay. Well, whenever you find it later on, even
- if I'm done, it will be helpful to all of us.
- 13 A Thank you.
- 14 Q Through counsel or however. But just to finish
- on the auditing standard. So I appreciate that
- 16 you disagree with the policymakers in Ottawa, but
- would you at least agree with me that certainly
- the auditing function of regulated public
- 19 accountants is highly regulated, then? You
- 20 mention at paragraph 71 a standard 250, for
- 21 example, which prescribes some of the obligations
- that befall professional accountants or chartered
- 23 accountants?
- 24 A Yeah. I think, you know, in the discussion with
- 25 Mr. Isaac, you know, what I was pointing out is

| 1  |   | that I believe that there's great oversight for  |
|----|---|--|
| 2  |   | fitness. You know, and that and for audit        |
| 3  |   | that's more so the case. What I'm suggesting     |
| 4  |   | only is that based on the strong recommendation  |
| 5  |   | of the FATF that auditors be subject to          |
| 6  |   | reporting suspicious transaction reports so that |
| 7  |   | those reports can form the basis of the          |
| 8  |   | intelligence of our financial intelligence       |
| 9  |   | unit so they can carry out their functions.      |
| 10 | Q | I appreciate that. But the policy makers have    |
| 11 |   | decided that they didn't agree with that view at |
| 12 |   | least thus far; correct? The legislator.         |
| 13 | А | Yeah, and my job wasn't to I mean, my mandate    |
| 14 |   | wasn't, you know, to say my job was to point     |
| 15 |   | out the gaps, the technical deficiencies and the |
| 16 |   | failures and outcomes of the regime, not         |
| 17 |   | necessarily to secede to what the government has |
| 18 |   | decided to do. I think if there's anything that  |
| 19 |   | comes out of the report, as you summarized       |
| 20 |   | earlier, it's that there are significant         |
| 21 |   | structural deficiencies and there is a           |
| 22 |   | consequence of legislation which doesn't yield   |
| 23 |   | the technical outcomes we need and or doesn't    |
| 24 |   | conform to the technical specifications that are |
| 25 |   | set out nor does it achieve the outcomes that we |

Q

| 1  |   | want.  |
|----|---|--|
| 2  |   | So, you know, I'm glad to agree with that        |
| 3  |   | legislation carves out assurance but and that    |
| 4  |   | the legislator did it, but it is in              |
| 5  |   | contravention of the FATF recommendations.       |
| 6  | Q | Well, we'll argue about that later. But that     |
| 7  |   | wasn't my view; that's your view. Right? That's  |
| 8  |   | your view. I didn't point out there were         |
| 9  |   | deficiencies. I was summarizing your view.       |
| 10 | А | This whole report is about my analysis. Sure.    |
| 11 | Q | Okay. All right. Now let's talk to conclude      |
| 12 |   | this discussion a bit about, more directly, the  |
| 13 |   | efforts of my client, The Chartered Professional |
| 14 |   | Accountants of Canada, CPAC.                     |
| 15 |   | You refer to the fact that you had been the      |
| 16 |   | chair of the committee, the CPA's anti-money     |
| 17 |   | laundering committee, from about 2013 to 2016.   |
| 18 | А | Yes.   |
| 19 | Q | And will you agree with me that one of the       |
| 20 |   | objectives of that committee was to assist the   |
| 21 |   | CPA Canada in contributing on behalf of CPA to   |
| 22 |   | the public interest and more efficient fight     |
| 23 |   | against money laundering?                        |
| 24 | А | Agreed.  |

Yeah. And you did your best when you were there

Q

1 for three or four years to achieve that 2 objective? 3 Α I did. 4 Q And one of the things you did in that capacity 5 was to issue the guide that you mentioned and you went through in some detail with my friend in 6 2014? 7 8 Yes. Α 9 All right. And he asked you a question as to Q 10 whether or not there had been update, and you 11 said you weren't aware of any. And I think you 12 said that in your report; right? 13 That's right. Α 14 Have you inquired as to whether or not the guide 0 15 was being updated? 16 Α Yes. 17 And what did they say? Q 18 They said it was not contemplated at the time. Α 19 And who and when did you ask that question, sir? 0 20 Α It was 2018 and I wrote to the -- it was 2018 or 21 2019, I suppose. And I'd written in to say 22 that -- to point out that the guide was out of 23 date and asked if it was going to be updated and 2.4 if I could assist.

Okay. And before, though, you filed your report

document.

| 1  |   | and revised your report and you wrote that there  |
|----|---|---|
| 2  |   | was no update. Did you follow up a year later to  |
| 3  |   | say, well, is anything happening? Did you make    |
| 4  |   | any inquiries?                                    |
| 5  | А | I guess I drew my inferences based on the         |
| 6  |   | articles that I've been reading, none of which    |
| 7  |   | have referenced an updated guide.                 |
| 8  | Q | Okay. Well, I guess we'll hear evidence in        |
| 9  |   | two days as to when it might be released if       |
| 10 |   | there's an update.                                |
| 11 |   | Then you note and you've spoken about that        |
| 12 |   | at some length about the issues. I think you      |
| 13 |   | note that at paragraph 58 about compliance with   |
| 14 |   | accountants and some accounting firms that        |
| 15 |   | FINTRAC had communicated. Do you remember that    |
| 16 |   | discussion you had with Mr. Isaac earlier?        |
| 17 | А | Yes.  |
| 18 | Q | Sorry?  |
| 19 | А | Yes, I do.  |
| 20 | Q | Okay. And that resulted, didn't it, in an alert   |
| 21 |   | that was issued by CPA Canada to try to sensitize |
| 22 |   | the profession in 2015 once that information had  |
| 23 |   | been obtained; is that correct?                   |
| 24 | А | Yeah, I assisted in the authorship of that        |
|    |   |   |

1 MR. PRATTE: Okay. And Maybe we could put that up, Ms. Krajewska, if we can locate it somewhere. 2 3 MS. KRAJEWSKA: It's tab 20 of the compendium, 4 Mr. Pratte. MR. ISAAC: Sorry, Mr. Pratte. Perhaps easier to 5 interject before you begin asking your 6 7 questions. Just for the hearing, that's 8 tab 18 -- I'm sorry. Never mind. I'll provide 9 the correct reference by messaging. I am sorry. 10 I apologize. MR. PRATTE: No, that's okay. Could we mark that as 11 12 the next exhibit, Mr. Commissioner. 13 THE COMMISSIONER: Very well. I think we are at 397, 14 Madam Registrar. 15 THE REGISTRAR: Yes, exhibit 397. 16 EXHIBIT 397: CPA Canada, Alert: Proceedings of 17 Crime (Money Laundering) and Terrorist Financing 18 - Know Your Obligations (July 2015) 19 MR. PRATTE: Thank you, Mr. Commissioner. 20 And after that alert, do you know whether FINTRAC 21 ever contacted CPA Canada to say these compliance 22 problems are maintained; you've got to do more 23 with your members? 2.4 No, that was just after that publication or just A

shortly after that was published the committee

1 was disbanded, so I don't have any knowledge. 2 0 You don't have any knowledge whether -- but you 3 know that FINTRAC is in regular contact with CPA 4 Canada. They haven't stopped talking to them 5 just because you left. Isn't that right? I wouldn't know that. But, I mean, I believe 6 Α 7 that Ms. -- Michelle -- I'm sorry, I've forgotten her last name. Michelle is, I 8 believe, on the newly formed committee for --9 10 advisory committee to the Department of Finance. Okay. But just so I understand your evidence 11 0 12 clearly, you have no knowledge or evidence that 13 after that alert was issued under your leadership 14 or support, FINTRAC continued to complain or 15 mention to CPA Canada that there were serious 16 compliance problems and that they needed to 17 address that? You have no knowledge of such a --18 I would have no direct knowledge of that. I Α 19 only base -- my conclusions are based on my 20 experience in dealing with public accounting 21 firms since. 22 And you made no inquiries of CPA Canada to say Q 23 what did you guys do about these compliance 2.4 issues before you filed the report, did you?

I did not.

Α

Q

25

| 1  | Q | And then you talk about administrative money      |
|----|---|---|
| 2  |   | penalties. You note at paragraph 59 that there    |
| 3  |   | have been no reporting entities by the accounting |
| 4  |   | sector or being penalties to the accounting       |
| 5  |   | sector. Now, up to 2015 you know I'm sure you     |
| 6  |   | know that other reporting entities did suffer     |
| 7  |   | administrative penalties; right?                  |
| 8  | A | Yeah, there were penalties issued. The first      |
| 9  |   | one I think was December 2009 that was            |
| 10 |   | published.  |
| 11 | Q | And right. As it had to be. And so there          |
| 12 |   | were penalties that were enforced in for other    |
| 13 |   | sectors, but not accountants. So it's not as if   |
| 14 |   | there were no penalties whatsoever; it's that     |
| 15 |   | just none that were for the accounting sector.    |
| 16 |   | Correct?  |
| 17 | А | That's correct.                                   |
| 18 | Q | Okay. And you've also mentioned that, though you  |
| 19 |   | disagree with that, when you had the meeting with |
| 20 |   | FINTRAC, FINTRAC and it's noted in the minutes    |
| 21 |   | considered that accountants were generally low    |
| 22 |   | risk for money laundering; right?                 |
| 23 | А | That is what it says in the minutes, yeah. I      |
| 24 |   | think that's what they said at the time.          |

Right. And you note in your report that there's

| 1  |   | been there have been really until very           |
|----|---|--|
| 2  |   | recently there was an interruption where there   |
| 3  |   | were no administrative penalties at all for two  |
| 4  |   | or three years; right?                           |
| 5  | А | Yeah. You know, one of the ways that the FATF    |
| 6  |   | determines whether or not monitoring and         |
| 7  |   | supervision is sufficient is based on the        |
| 8  |   | outcomes of examinations and how dissuasive      |
| 9  |   | penalties are to participants in the system.     |
| 10 |   | And so I point out that over that period there   |
| 11 |   | were no penalties. There was there were a        |
| 12 |   | number that continued, like Lotto Quebec, for    |
| 13 |   | instance, which was recently published which was |
| 14 |   | negotiated, I suppose, throughout that period.   |
| 15 |   | And then an MSB recently. But there was a        |
| 16 |   | hiatus in publication of penalties because of a  |
| 17 |   | case called Kabul Farms.                         |
| 18 |   | So I suppose the real difficulty, if you're      |
| 19 |   | saying if you're trying to prove to the FATF     |
| 20 |   | that your penalties are dissuasive, no matter    |
| 21 |   | the reason, if there aren't any, it's hard to    |
| 22 |   | suggest that, you know, the reporting entity     |
| 23 |   | that the reporting entity sectors are going to   |
| 24 |   | stand up and take notice if there aren't         |
| 25 |   | sanctions or consequences or to                  |

- non-compliance.

  Yeah. But, first of all, let's try to deal with these questions one at a time. You've alluded now for the first time to an action that may explain, as I understand it, why there were no penalties for anybody for two or three years, the
- 8 A Yeah.

9 Q And that was a case of the Federal Court of
10 Appeal which criticized the process by which
11 penalties were administered. Is that not
12 correct?

Kabul case; right?

- 13 A Yeah, I think the specific wording -- or the

  14 wording in that decision was all about the idea

  15 that the calculation was not reasonable in that

  16 situation.
- 17 Q. Right. Well, all I'm trying to suggest to you, 18 although it's not mentioned in your report, is 19 that the reason for the interruption in all 20 administrative penalties is not that they were 21 asleep at the switch, but that they were revising 22 their systems to make it compliant with the 23 direction of the Federal Court of Appeal. Is 2.4 that your understanding?
- 25 A Yeah, I -- the first part of that of course is

| 1  |   | that from the time they had the power in 2009 to |
|----|---|--|
| 2  |   | the time they stopped, let's call it 2015-ish,   |
| 3  |   | there were no penalties against accountants, not |
| 4  |   | a single one. And then I appreciate that the     |
| 5  |   | hiatus FINTRAC's hiatus while they revisited     |
| 6  |   | their processes resulted in no administrative    |
| 7  |   | monetary penalties for anyone.                   |
| 8  |   | So that you know, that is at the heart of        |
| 9  |   | the analysis, though, is that there is no        |
| 10 |   | dissuasive nature of penalties regardless of the |
| 11 |   | reason which creates that gap of outcome when we |
| 12 |   | look at when we evaluate ourselves against       |
| 13 |   | the FATF standards.                              |
| 14 | Q | FINTRAC has discretion as to when it applies     |
| 15 |   | penalties, does it not?                          |
| 16 | A | Discretion. Yes, it does.                        |
| 17 | Q | Right. And might it be for it to decide          |
| 18 |   | whether if it's of the view that the             |
| 19 |   | accounting sector is a low risk sector, that it  |
| 20 |   | does not need to enforce penalties? You may      |
| 21 |   | disagree with that, but could that not be a      |
| 22 |   | reasonable explanation for the fact that they    |
| 23 |   | have not sought penalties against accounting     |
| 24 |   | firms?   |
| ٥٦ | - | m1 1 1 1 C                                       |

There could be any number of reasons FINTRAC

25

A

1 could decide not to issue a penalty. We know a 2 view things. We know that accounting firms were 3 non-compliant and we know that there were no 4 public penalties. Why they decided that is up 5 to them. You also said --6 MR. PRATTE: And, Mr. Commissioner, I know I'm going to hit the clock very soon, I think. I hope I 8 9 can do this in the next five or so minutes, if 10 that's okay. THE COMMISSIONER: Yes, that's fine, Mr. Pratte. 11 12 MR. PRATTE: Thank you, Mr. Commissioner. 13 You mentioned that the lack of awareness and you Q 14 noted that that was mentioned in that minute that 15 my friend referred you to in terms of the -- I 16 think the minute said that some accountants and some firms had lacked awareness. The minute I'm 17 18 talking about is of your committee where FINTRAC 19 reported. And you said that based on your 20 experience there was lack of awareness. Now, did 2.1 you conduct a systematic study of the extent of 22 lack of awareness and particularly in the CPA 23 profession? 2.4 So -- well, you know, there was just recently I Α 25 did a presentation for the CPA academy, which is

| 1  |   | an institution that provides training across    |
|----|---|---|
| 2  |   | professional accountants in Canada and the US.  |
| 3  |   | And it was a presentation on accounting and     |
| 4  |   | money laundering and accountants and money      |
| 5  |   | laundering, similar sort of subject matter to   |
| 6  |   | the report.                                     |
| 7  |   | And I was I'll tell you I was curious too       |
| 8  |   | about how that had evolved over time, and so I  |
| 9  |   | did include a few questions in that as part     |
| 10 |   | of that webinar polling question to ask about   |
| 11 |   | level of awareness. And, you know, at the       |
| 12 |   | beginning of the presentation there was very    |
| 13 |   | few people recognized the extent of the         |
| 14 |   | situation and by the or the obligations         |
| 15 |   | themselves, and by the end there was a greater  |
| 16 |   | awareness. That's patting myself on the back.   |
| 17 |   | I'm glad to share the results of that study     |
| 18 |   | with you. Or it's not a study. It's not a very  |
| 19 |   | academic approach, but I think it's indicative. |
| 20 |   | I'd be glad to share those webinar results with |
| 21 |   | you.  |
| 22 | Q | Just to answer my question, though, is that you |
| 23 |   | didn't conduct a formal study, did you?         |
| 24 | А | I did not. The comments in my report were based |
| 25 |   | on my experience.                               |

Q

1 And you mentioned that people that in your Q 2 business you talk to often evince a lack of 3 awareness. But when I look at your website 4 that's sort of what you're selling; right? And I 5 don't mean this in a pejorative way, but part of your raison d'être as The AML Shop is for those 6 7 who think need more awareness, they'd come to you; right? 8 9 Α I've got to put my kids through school somehow. 10 Sure. Right. But it's a bit of a biased sample; right? 11 0 12 I mean, you can't draw an overall conclusion that 13 the entire CPA profession is -- or a majority or 14 even a significant minority is unaware because 15 those who come to see you who may or may not --16 Mr. Pratte, I have far more interactions with Α 17 CPAs than just as an advisor. 18 Okay. Let's just conclude in terms of the CPA's Q 19 efforts. You've told us, then, that you 20 participated in a guide in 2014. And I expect 2.1 that the Commissioner will hear on Wednesday that 22 there's a revised guide that's been in the works 23 for sometime that will be issued next year. 2.4 Α Right.

We talked about the alert. You mentioned the

1 webinar that followed also the advice from 2 FINTRAC about their concerns; right? 3 Α Yes. 4 Q And you know that there's -- other than the 5 committee you chaired, there is also a committee 6 that the federal government had called the 7 public-private sector advisory committee that 8 FINTRAC was on and the CPA Canada was on? Yeah, the new iteration of the committee I was 9 Α 10 part of. 11 Okay. And now, this new iteration of the Q 12 committee is called the -- people refer to it as 13 ACMLTF or something. ACMLTF. It's the advisory 14 committee on money laundering and terrorist 15 financing? 16 Α The working committee, yes. Okay. And that's on, I think, since 2017; right? 17 Q 18 Α Okay. 19 Q Roughly. 20 Α I'm not aware of the date. 21 Q Okay. And you know that CPA Canada sits on that 22 committee? 23 Α I am aware of that. 24 Yes. And they regularly interact with FINTRAC in Q

that respect?

Q

25

| 1  | А | Yeah, I would guess there's regular               |
|----|---|---|
| 2  |   | interactions. Sure.                               |
| 3  | Q | And you know that CPA Canada has organized a      |
| 4  |   | number of conferences. For example, in            |
| 5  |   | February 2019 they hosted a session between       |
| 6  |   | provincial CPA bodies and CPA Canada and had      |
| 7  |   | leaders of the profession to deal with money      |
| 8  |   | laundering. Were you aware of that?               |
| 9  | A | I wasn't aware of that.                           |
| 10 | Q | Okay. And you know and I think you've             |
| 11 |   | referred to this that there are a number of       |
| 12 |   | publications emanating from CPA Canada to try and |
| 13 |   | educate the profession and assist in its learning |
| 14 |   | about their responsibilities; right?              |
| 15 | А | Especially as it relates to beneficial            |
| 16 |   | ownership. Sure.                                  |
| 17 | Q | But money laundering more generally?              |
| 18 | А | Yeah, the money laundering articles speak very    |
| 19 |   | little to the obligations of accountants or how   |
| 20 |   | to identify risk. I've been through the           |
| 21 |   | compendium documents and substantially all of     |
| 22 |   | them deal with either the beneficial ownership    |
| 23 |   | initiative or broadly, you know or a very         |
| 24 |   | broad coverage of the subject.                    |

Right. But the new guide, if it updates your old

1 guide, will do exactly what you would like it to 2 do; right? To guide the profession. 3 Α I have great hopes for that guide. 4 Q All right. So -- and then you've just mentioned 5 beneficial ownership. You know that the profession -- and here I'm referring to CPA 6 Canada -- is in favour actually of improving 8 transparency and having a register for beneficial 9 ownership? 10 Α I reference that in my report, yes. All right. And they also support a whistleblower 11 0 12 framework? 13 Yeah, the whistleblower framework is something Α 14 that seems mentioned in the articles. You know, one of the those articles was -- one of those 15 16 articles on the whistleblower framework was 17 troubling to me. It was -- the quote in the article which was part of the -- your initial 18 19 compendium documents at tab 33. It said the 20 quote was: 2.1 "It is becoming increasingly complex in 22 Canada for CPAs to try to do the right 23 thing if they don't know where to report, 2.4 how to report and even what protections

will be available when there's so many

| 1  |   | different pieces of legislation speaking          |
|----|---|---|
| 2  |   | to the issue of reporting."                       |
| 3  |   | It's really troubling for me to read that in      |
| 4  |   | concert with the limited number of suspicious     |
| 5  |   | transaction reports that are out there because I  |
| 6  |   | think it's abundantly clear how that reporting    |
| 7  |   | should take place, when it should take place,     |
| 8  |   | perhaps not the application to specific           |
| 9  |   | individuals, as I point out, and the protections  |
| 10 |   | that are provided.                                |
| 11 |   | So yeah. But I don't understand the               |
| 12 |   | whistleblower hotline and how it conflicts or     |
| 13 |   | replaces or what its relationship to suspicious   |
| 14 |   | transaction reporting is.                         |
| 15 | Q | Well, maybe you should stay tuned on              |
| 16 |   | Wednesday and we may understand that better. But  |
| 17 |   | my point is simply generally speaking,            |
| 18 |   | Mr. McGuire, would you not agree that although no |
| 19 |   | system is perfect, more can always be done. CPA   |
| 20 |   | Canada has done quite a lot to try to educate its |
| 21 |   | membership and to make progress in this area by   |
| 22 |   | cooperating as best it could with legislators and |
| 23 |   | FINTRAC. Would you not agree with that?           |
| 24 | А | I agree that a lot is being done, you know, and   |
| 25 |   | it's you know, Mr. Pratte, I reiterate how        |

| 1  | frustrating it is to see I mean, I sat in the       |
|----|---|
| 2  | chair of chair and, you know, despite the number    |
| 3  | of outreach activities at the time, it didn't       |
| 4  | seem to move the needle. And so I am the            |
| 5  | biggest cheerleader for initiatives that would      |
| 6  | help improve that situation.                        |
| 7  | MR. PRATTE: Thank you very much, Mr. Commissioner,  |
| 8  | for your indulgence, I apologize for my             |
| 9  | inefficiency in putting documents. And thank        |
| 10 | you for my friend Mr. Isaac for assisting.          |
| 11 | Thank you, Mr. McGuire.                             |
| 12 | THE WITNESS: Thank you.                             |
| 13 | THE COMMISSIONER: All right. Thank you, Mr. Pratte. |
| 14 | Next we have Mr. Soltan on behalf of the            |
| 15 | Chartered Professional Accountants of               |
| 16 | British Columbia, who has been allocated            |
| 17 | 30 minutes.   |
| 18 | MR. SOLTAN: Yes. Good afternoon, Mr. Commissioner.  |
| 19 | Can you hear me?                                    |
| 20 | THE COMMISSIONER: I can. Thank you.                 |
| 21 | MR. SOLTAN: Good afternoon, Mr. McGuire.            |
| 22 | THE COMMISSIONER: I'll say, Mr. Soltan, we're       |
| 23 | getting a bit of a reverberation from you. So       |
| 24 | I'm not sure if that's a bit of feedback or         |
| 25 | something. At least I am.                           |

Matthew McGuire (for the Commission) Exam by Mr. Pratte

25

| 1  | MR. SOLTAN: My colleague who is in the room with me |
|----|---|
| 2  | is muted.   |
| 3  | THE COMMISSIONER: Thank you.                        |
| 4  | MR. SOLTAN: Maybe that helps a little bit. There we |
| 5  | go. Mr. McGuire I'm sorry, Mr. Commissioner.        |
| 6  | We're having a technical issue.                     |
| 7  | Mr. Commissioner, should we stand down for five     |
| 8  | minutes while we resolve this issue?                |
| 9  | THE COMMISSIONER: I think that's a good idea,       |
| 10 | Mr. Soltan. I don't know if our IT coordinator      |
| 11 | can help or not, but I know that Ms. Matters is     |
| 12 | on the line. So you can coordinate with her,        |
| 13 | perhaps. We'll stand down for five minutes.         |
| 14 | Thank you.  |
| 15 | MR. SOLTAN: Thank you very much.                    |
| 16 | THE REGISTRAR: The hearing is stood down until      |
| 17 | 1:45 p.m.   |
| 18 | (WITNESS STOOD DOWN)                                |
| 19 | (PROCEEDINGS ADJOURNED AT 1:41 P.M.)                |
| 20 | (PROCEEDINGS RECONVENED AT 1:45 P.M.)               |
| 21 | THE REGISTRAR: The hearing is resumed,              |
| 22 | Mr. Commissioner.                                   |
| 23 | THE COMMISSIONER: Thank you, Madam Registrar.       |
| 24 | MATTHEW MCGUIRE, a                                  |

witness for the

| 1  |       | Commission, recalled.                             |
|----|-------|---|
| 2  | THE ( | COMMISSIONER: Yes, Mr. Soltan.                    |
| 3  | MR. S | SOLTAN: Yes. Thank you very much,                 |
| 4  |       | Mr. Commissioner.                                 |
| 5  | EXAM: | INATION BY MR. SOLTAN:                            |
| 6  | Q     | Yes, Mr. McGuire, I would like to ask you a       |
| 7  |       | question about paragraph 30 of your report, which |
| 8  |       | was the subject of extensive examination by my    |
| 9  |       | friend Mr. Pratte. And I would simply ask you to  |
| 10 |       | confirm that you weren't able to find any other   |
| 11 |       | cases, criminal cases involving money laundering  |
| 12 |       | involving accountants, whether professional or    |
| 13 |       | unregulated, in Canada?                           |
| 14 | A     | Those are the extent of my findings based on the  |
| 15 |       | search of CanLII that is described in that        |
| 16 |       | paragraph.  |
| 17 | Q     | Yes. Thank you. My assumption is that you've      |
| 18 |       | never been a member of CPABC.                     |
| 19 | A     | That's a good assumption. Yes.                    |
| 20 | Q     | Thank you. Did you consult with anyone at         |
| 21 |       | CPABC about its governing documentation and how   |
| 22 |       | it is administered and interpreted and            |
| 23 |       | administered?                                     |
| 24 | А     | No, I did it based on a plain reading on a        |

plain reading of the information.

list.

1 And by governing documentation I'm referring to Q. 2 the CPA Act and the bylaws. 3 Α That's right. 4 Q As well as the CPA code of professional conduct. 5 Α Yes. I have a few questions for you about that. And 6 0 I'll take you to page 38 of your report where you 7 8 talk about the fact that CPABC and the CPA Act of British Columbia does not define "accounting 9 services." 10 11 MR. SOLTAN: And, Madam Registrar, I'll need to have 12 on the screen appendix A of the overview report, 13 which was exhibit 391, I believe. 14 0 And if I could take you to section 47. 15 Mr. McGuire, you've reviewed that section before? 16 I think it's copied in paragraph 30. Α 17 And would you agree with me that this section is Q not intended to define the practice of 18 19 professional accounting but rather is intended to 20 define what only CPAs can do in British Columbia? 21 Α All I can say is what I read. And what I read 22 it is says "the practice of professional 23 accounting comprises one or more of the 2.4 following services," and then it provides a

| 1  | Q | You'll see in section (2) that there is a         |
|----|---|---|
| 2  |   | provision that says a person is not allowed to    |
| 3  |   | perform these services unless, for example,       |
| 4  |   | they're a chartered professional accountant       |
| 5  |   | member in good standing?                          |
| 6  | А | I agree with that, yes.                           |
| 7  | Q | Does that give you some assistance in             |
| 8  |   | interpreting this section?                        |
| 9  | А | I'm sorry, I am not sure what you're looking      |
| 10 |   | for.  |
| 11 | Q | What I'm getting at here is that the only purpose |
| 12 |   | of section 47 is to define those services that    |
| 13 |   | can only be performed by CPAs in                  |
| 14 |   | British Columbia. So, for example, an             |
| 15 |   | unregulated accountant would not be permitted to  |
| 16 |   | perform these services in British Columbia.       |
| 17 | А | Okay.   |
| 18 | Q | You agree with that?                              |
| 19 | А | That's what it says there, yes.                   |
| 20 | Q | Yes. Thank you. And if I could just take you to   |
| 21 |   | section 3(c) of the CPA Act which is right at the |
| 22 |   | beginning. A little further up.                   |
| 23 |   | Page 35 of the PDF. There we are. So if I         |
| 24 |   | could direct your attention to section 3(c) of    |
|    |   |   |

the CPA Act. CPA Act is shorthand for the

| 1  |   | British Columbia Chartered Professional          |
|----|---|--|
| 2  |   | Accountants Act, for the record.                 |
| 3  | А | Okay.  |
| 4  | Q | You'll see that CPABC has as one of its object   |
| 5  |   | the regulation of:                               |
| 6  |   | "All matters, including competency,              |
| 7  |   | fitness and professional conduct, relating       |
| 8  |   | to the practice of accounting by members,        |
| 9  |   | students, professional accounting                |
| 10 |   | corporations and registered firms."              |
| 11 |   | So would you agree with me that because of the   |
| 12 |   | section that CPABC has regulatory authority over |
| 13 |   | all services provided by its members, whether    |
| 14 |   | they are in public practice or in industry?      |
| 15 | А | So, Mr. Soltan, the purpose of my analysis       |
| 16 |   | was as I mentioned when I was speaking with      |
| 17 |   | Mr. Pratte, the purpose of my analysis was to    |
| 18 |   | try to find a way to move from the PCMLTFA       |
| 19 |   | definition of providing accounting services to   |
| 20 |   | the public down to what that meant in each       |
| 21 |   | province in the absence of a definition. And so  |
| 22 |   | I'm not that familiar with the CPABC legislation |
| 23 |   | and but on a plain reading now, the practise     |
| 24 |   | of accounting, I don't think we've gotten to     |
| 25 |   | what constitutes "accounting" yet. Is that       |

| 1  |   | next?   |
|----|---|---|
| 2  | Q | I'm going to take you to that. I just wanted to   |
| 3  |   | draw your attention to section $3(c)$ , and I'm   |
| 4  |   | putting to you that CPABC has regulatory          |
| 5  |   | authority over the practise of accounting by      |
| 6  |   | members and firms over all aspects of the         |
| 7  |   | services they provide as well as members in       |
| 8  |   | industry. That's my proposition.                  |
| 9  | A | The clause seems all encompassing. Sure.          |
| 10 | Q | Yeah. Thank you.                                  |
| 11 | A | "All matters" is a very broad term. Sure.         |
| 12 | Q | You also in your analysis in paragraph 39         |
| 13 |   | suggested that there might be a difference        |
| 14 |   | between under the bylaws "public accounting       |
| 15 |   | services," quote/unquote, and "other regulated    |
| 16 |   | services," quote/unquote. And you opine that      |
| 17 |   | only the former, that is to say public accounting |
| 18 |   | services, are subject to the federal AML regime.  |
| 19 | А | Yeah, what I was again, it defined two            |
| 20 |   | categories of things. It said                     |
| 21 | Q | Yes.  |
| 22 | А | public accounting services and it said other      |
| 23 |   | regulated services. So I was just going           |
| 24 |   | logically from just as just based on a            |
| 25 |   | plain layperson's reading when you define two     |

| 1  |     | things separately that, you know, one doesn't    |
|----|-----|--|
| 2  |     | there's no need to define the second thing if    |
| 3  |     | the first thing includes the second thing. It    |
| 4  |     | didn't seem like a stop stead, is all I'm trying |
| 5  |     | to say.  |
| 6  | Q   | Let me suggest to you the only reason for the    |
| 7  |     | difference is for the purposes of licensing.     |
| 8  | А   | I don't know. I would just, as I say, was        |
| 9  |     | trying to follow the bouncing ball of going from |
| 10 |     | what does the federal legislation say is covered |
| 11 |     | and then trying to find a place that it was      |
| 12 |     | referenced in the provincial legislation to try  |
| 13 |     | to come to a conclusion about what was covered.  |
| 14 |     | And that was and that's the analysis I set       |
| 15 |     | out. If the analysis is flawed, then I accept    |
| 16 |     | that.  |
| 17 |     | The point of as I say, I was trying to           |
| 18 |     | come to a logical conclusion about how it        |
| 19 |     | flowed.  |
| 20 | Q   | Thank you. I'll take you to paragraph 62 of your |
| 21 |     | report.  |
| 22 | MR. | SOLTAN: And I'll need Madam Registrar to bring   |
| 23 |     | up the CPABC code of professional conduct, which |
| 24 |     | I believe is appendix A to the overview report.  |

Pardon me, appendix E. Appendix E. There we

1 are. It's rule 102.1. A little bit higher. 2 Thank you. 3 0 Would you agree with me and I appreciate that the 4 rule says what it says, but would you be prepared to agree with me that if a member is convicted of 5 money laundering for terrorist financing that 6 they have an obligation to promptly notify CPABC? 7 8 Yes, and it says so in paragraph 62 of my Α 9 report. Yes. And if I could just take you to 10 0 11 footnote 19, which deals with rule 201.1. 12 MR. SOLTAN: A little further down. Pardon me, it's 13 footnote 19 of Mr. McGuire's report. And I'm 14 referring to 201.1. 15 I understood your report to suggest that 16 rule 201.1 could be interpreted to only apply to licensing-related legislation. Do you see such a 17 restriction on the face of the rule? 18 19 In fact, I think I point out that later the Α 20 guidance suggests that it's -- so where I 2.1 looked -- I can't scroll, but you see that once 22 you start reading the guidance -- okay. So on 23 the face of it I don't -- like the FINTRAC 2.4 legislation does not seem to me to be licensing

legislation in any way for a public accountant.

- 1 That was the first part of my -- that was the
- first part of my analysis. But if you scroll
- down further. I ...
- 4 Q I think it's paragraph 2 of the guidance.
- 5 A Yeah, there's -- it was in the guidance. I did
- find in the guidance that it seemed to push
- 7 towards the idea that you would have to report
- 8 deficiencies with FINTRAC.
- 9 MR. SOLTAN: Yes. Paragraph 2, Madam Registrar. A
- 10 little higher.
- 11 Q "The registrant should be cognizant of --"
- 12 A And comply with -- yes. So compliant. I think
- 13 there was another section that dealt more
- 14 specifically with the reporting of -- I am
- sorry, you're questioning, not me. Go ahead.
- 16 Q Yes. Exactly. I think all I'm trying to suggest
- 17 it is that rule 201.1 has no restriction on its
- face dealing with licensing. And when you read
- 19 paragraph 2 of the guidance it's very broad in
- its scope, rule 201.1. It has no --
- 21 A That it's directed -- so paragraph 2 says that
- you must comply with legislative requirements.
- 23 O Yes.
- 24 A Sure. No question here.
- 25 Q Okay. Thank you. And I understand your evidence

| 1  |   | to be that there may be a risk of money           |
|----|---|---|
| 2  |   | laundering or terrorist financing with            |
| 3  |   | unregulated accountants. Is that your evidence?   |
| 4  | A | Yeah, the risk recognized by, for instance, the   |
| 5  |   | Grant Thornton report on the subject which        |
| 6  |   | relates professional accountants the              |
| 7  |   | accountants as they were defined by the           |
| 8  |   | legislation is posing a high risk tangential to   |
| 9  |   | that of a real estate practitioner.               |
| 10 | Q | And would you agree that it is entirely up to     |
| 11 |   | parliament to decide to amend the federal AML     |
| 12 |   | legislation to deal with unregulated accountants  |
| 13 |   | and bring them into the regime?                   |
| 14 | A | Absolutely.                                       |
| 15 | Q | Yes.  |
| 16 | А | Yes, sir.   |
| 17 | Q | You spoke briefly about information sharing in    |
| 18 |   | your evidence. And are you aware of anything in   |
| 19 |   | principle that would prevent FINTRAC from sharing |
| 20 |   | information with CPABC?                           |
| 21 | А | Yes. So or if it were legislated I can't          |
| 22 |   | think of a problem. But as it stands, FINTRAC     |
| 23 |   | is required cannot disclose specified             |
| 24 |   | designated information in the absence of that     |
| 25 |   | authority in the act as far as I understand.      |

| 1  | Q | You think that they can't do it because it's not  |
|----|---|---|
| 2  |   | in the act?                                       |
| 3  | A | What I'm saying is that as far as I understand    |
| 4  |   | the legislation, FINTRAC is allowed to disclose   |
| 5  |   | designated information only to specified          |
| 6  |   | parties. Sorry. And "designated information"      |
| 7  |   | is defined within that legislation.               |
| 8  | Q | So in order for FINTRAC to share information with |
| 9  |   | CPABC the federal legislation would need to be    |
| 10 |   | amended?  |
| 11 | А | Well, designated information, which would mean    |
| 12 |   | specific case-related information.                |
| 13 | Q | Yes.  |
| 14 | А | Right. Yes, I would agree with that.              |
| 15 | Q | And if I could just take you to footnote 18.      |
| 16 |   | This is where you talked about the disciplinary   |
| 17 |   | cases of CPABC.                                   |
| 18 | А | Yes.  |
| 19 | Q | And you made an observation that they didn't      |
| 20 |   | appear to deal with money laundering?             |
| 21 | А | Yeah, that's right. I didn't on my reading        |
| 22 |   | of those three years of disciplinary cases I      |
| 23 |   | didn't see one that explicitly called out money   |
| 24 |   | laundering.                                       |

Is it fair to say that that was simply stating a

| 1  |   | fact and it was not intended to be a criticism?  |
|----|---|--|
| 2  | А | I think it was an observation of so an           |
| 3  |   | observation. So fact, for sure. The idea         |
| 4  |   | behind it was when we think about monitoring and |
| 5  |   | oversight with respect to anti-money laundering, |
| 6  |   | I was looking for indications that there were    |
| 7  |   | dissuasive sanctions in line with the outcomes   |
| 8  |   | of the FATF recommendations looked for. And,     |
| 9  |   | you know, as in the CPABC materials I understand |
| 10 |   | that they say that, you know, FINTRAC is the     |
| 11 |   | regulator and therefore I shouldn't have         |
| 12 |   | expected to see I guess the position would be    |
| 13 |   | that I shouldn't have expected to see any money  |
| 14 |   | laundering-related disciplinary notices. I       |
| 15 |   | suppose if you take that together with the rules |
| 16 |   | we looked at just a moment ago, I would expect   |
| 17 |   | that the accounting those subject to the         |
| 18 |   | CPABC rules would have to report those be        |
| 19 |   | obligated to report those deficiencies, the even |
| 20 |   | shorter violations by FINTRAC, and I guess I     |
| 21 |   | could imagine that there might be a parallel     |
| 22 |   | disciplinary process in respect of those         |
| 23 |   | failures.  |
| 24 | Q | But I'm I just want to deal with the fact that   |

there -- as you observed, there don't appear to

| 1  |     | be any discipline cases involving money           |
|----|-----|---|
| 2  |     | laundering.                                       |
| 3  | A   | In terms of money laundering compliance, not      |
| 4  |     | that I agree with.                                |
| 5  | Q   | But you don't know why that is, do you?           |
| 6  | A   | I don't know why that is. Yes.                    |
| 7  | Q   | And I believe that in your examination by         |
| 8  |     | Mr. Pratte you made the point that your report is |
| 9  |     | focused on the national framework for regulating  |
| 10 |     | AML and the proposed revisions that you suggested |
| 11 |     | or proposed to that regime. Is that a fair        |
| 12 |     | statement?  |
| 13 | A   | Yes. Focused there, yes.                          |
| 14 | Q   | And you'll also agree with me that you did not    |
| 15 |     | intend in writing your report to criticize either |
| 16 |     | the CPA profession in BC or Canada?               |
| 17 | A   | Yeah, quite explicitly so.                        |
| 18 | Q   | And you also did not intend to diminish the       |
| 19 |     | reputation of the CPA profession in BC or Canada? |
| 20 | A   | No, that was not the intention of my report and   |
| 21 |     | that was made explicit early on.                  |
| 22 | MR. | SOLTAN: Thank you very much. Those are my         |
| 23 |     | questions, Mr. Commissioner.                      |
| 24 | THE | COMMISSIONER: Thank you, Mr. Soltan. I'll now     |

call on Mr. Gratl on behalf of Transparency

25

1 International Coalition, who has been allocated 2 15 minutes. 3 MR. GRATL: Thank you, Mr. Commissioner. 4 Madam Registrar, would you kindly pull up the BC -- the document entitled "BC's Public 5 Registry to Combat Money Laundering: Broken on 6 Arrival." 7 8 THE REGISTRAR: Sorry, is that the one that you 9 provided us earlier today? MR. GRATL: Yes, that's correct. 10 11 EXAMINATION BY MR. GRATL: 12 0 Mr. McGuire, I'd like to draw on your expertise 13 in anti-money laundering to discuss the features 14 of British Columbia's Beneficial Ownership 15 Registry. Are you familiar with that registry? 16 Not specifically, no. Α 17 Okay. Have you had an opportunity to review the Q 18 C.D. Howe publication "BC's Public Registry to 19 Combat Money Laundering: Broken on Arrival"? 20 Α Yeah, I have. 21 Q Would you agree that a weakness of the current 22 British Columbia Beneficial Ownership Registry is 23 that there's no mechanism for proactive 2.4 verification of identification information from beneficial owners? 25

| 1  | А | Yeah, I've spoken on this topic before. I find   |
|----|---|--|
| 2  |   | this to be a failure with most beneficial        |
| 3  |   | ownership systems broadly in Canada, which is    |
| 4  |   | that the information is user submitted, not      |
| 5  |   | subject to verification and not tied in any way  |
| 6  |   | digitally to the beneficial owners or directors  |
| 7  |   | or officers. We've seen some of the problems     |
| 8  |   | that that causes across the world in terms of,   |
| 9  |   | you know, unreliable information, information    |
| 10 |   | which is includes fictitious people. And so      |
| 11 |   | certainly to the extent that beneficial          |
| 12 |   | ownership is opaque or concealed, it provides an |
| 13 |   | opportunity for those to who wish to exploit the |
| 14 |   | system to obscure their identities as owners and |
| 15 |   | controllers of those legal entities.             |
| 16 | Q | Would it be of benefit to the utility of the     |
| 17 |   | Beneficial Ownership Registry to allow public    |
| 18 |   | searchability and discoverability of information |
| 19 |   | contained in the database?                       |
| 20 | А | Yeah, there are different models proposed about  |
| 21 |   | how this should work, but, you know, when these  |
| 22 |   | models have been made public, you know, one of   |
| 23 |   | the wonderful things that happens is the ability |
| 24 |   | for, for instance, financial institutions to be  |
| 25 |   | able to conduct links between objects so they    |

| 1  |   | can truly understand the risk of the clients     |
|----|---|--|
| 2  |   | they're dealing with. And the public in general  |
| 3  |   | to understand transparency, particularly related |
| 4  |   | to corruption, to make linkages unknown. In      |
| 5  |   | Australia there's been some wonderful            |
| 6  |   | initiatives but they have kind of taken a back   |
| 7  |   | door to it where they've looked instead to court |
| 8  |   | filings to try to piece together beneficial      |
| 9  |   | ownership. But these sort of quasi-              |
| 10 |   | investigative steps to uncover wrongdoing by a   |
| 11 |   | more public registry I think could be            |
| 12 |   | encouraged. Sure.                                |
| 13 | Q | Thank you. And in terms of the possibility of    |
| 14 |   | sanctions for false filings, is that a step that |
| 15 |   | you're of the view that might improve the        |
| 16 |   | beneficial ownership registry?                   |
| 17 | А | Yeah, Mr. Gratl, just as with, you know, the     |
| 18 |   | conversations we've been having to this point,   |
| 19 |   | you know, in the absence of enforcement, you     |
| 20 |   | know, these regimes don't work particularly      |
| 21 |   | well. There has to be monitoring and oversight   |
| 22 |   | to ensure that there is compliance. And to my    |
| 23 |   | understanding there's been very little in the    |
| 24 |   | way of enforcement of non-compliance with        |
| 25 |   | beneficial ownership-style rules that have       |

| 1  | existed to this point.   |
|--|--|
| 2  | MR. GRATL: Thank you, Mr. McGuire.   |
| 3  | Mr. Commissioner, I'd like to that ask this  |
| 4  | document "BC's Public Registry to Combat Money   |
| 5  | Laundering: Broken on Arrival" authored by   |
| 6  | Kevin Comeau be marked as the next exhibit.  |
| 7  | THE COMMISSIONER: Very well. That will be I'm  |
| 8  | sorry, where are we at now, Madam Registrar?   |
| 9  | THE REGISTRAR: 378 [sic], Mr. Commissioner sorry,  |
| 10   | 398.   |
| 11   | EXHIBIT 398: BC's Public Registry to Combat  |
| 12   | Money Laundering: Broken on Arrival, by Kevin  |
|  |  |
| 13   | Comeau, C.D. Howe Institute - Commentary   |
| 13<br>14                                     | Comeau, C.D. Howe Institute - Commentary No. 583, November 2020  |
|  |  |
| 14   | No. 583, November 2020   |
| 14<br>15                                     | No. 583, November 2020  MR. GRATL: Madam Registrar, I'm finished with this   |
| 14<br>15<br>16                               | No. 583, November 2020  MR. GRATL: Madam Registrar, I'm finished with this document. Thank you kindly.   |
| 14<br>15<br>16<br>17                         | No. 583, November 2020  MR. GRATL: Madam Registrar, I'm finished with this document. Thank you kindly.  Q Mr. McGuire, I'd like to draw on your expertise,   |
| 14<br>15<br>16<br>17                         | No. 583, November 2020  MR. GRATL: Madam Registrar, I'm finished with this document. Thank you kindly.  Q Mr. McGuire, I'd like to draw on your expertise, then, in providing advice to financial  |
| 14<br>15<br>16<br>17<br>18                   | No. 583, November 2020  MR. GRATL: Madam Registrar, I'm finished with this document. Thank you kindly.  Q Mr. McGuire, I'd like to draw on your expertise, then, in providing advice to financial institutions. You are aware that the Office of   |
| 14<br>15<br>16<br>17<br>18<br>19             | No. 583, November 2020  MR. GRATL: Madam Registrar, I'm finished with this document. Thank you kindly.  Q Mr. McGuire, I'd like to draw on your expertise, then, in providing advice to financial institutions. You are aware that the Office of the Comptroller of Currency, the OCC, which is a  |
| 14<br>15<br>16<br>17<br>18<br>19<br>20<br>21 | No. 583, November 2020  MR. GRATL: Madam Registrar, I'm finished with this document. Thank you kindly.  Q Mr. McGuire, I'd like to draw on your expertise, then, in providing advice to financial institutions. You are aware that the Office of the Comptroller of Currency, the OCC, which is a department of the US Department of Treasury, |

Q Now, that -- in your experience that

25

| 1  |   | \$1.92 billion fine provided compliance incentives |
|----|---|--|
| 2  |   | for Canadian financial institutions, did it?       |
| 3  | A | Provided I'm sorry?                                |
| 4  | Q | Sorry. Compliance incentives. That certainly       |
| 5  |   | set the Canadian financial institutions,           |
| 6  |   | particularly the chartered banks, on guard about   |
| 7  |   | compliance with US money laundering requirements?  |
| 8  | А | No question. That was a significant sum of         |
| 9  |   | money and, you know, there's a broad awareness     |
| 10 |   | among Canadian financial institutions that of      |
| 11 |   | their exposure to the risk of US compliance        |
| 12 |   | initiatives.                                       |
| 13 | Q | And that's not true in the case of penalties       |
| 14 |   | issued by Canadian authorities, is it?             |
| 15 | A | I haven't seen any Canadian penalty applied to a   |
| 16 |   | foreign entity with one exception, which was       |
| 17 | Q | Manulife.  |
| 18 | A | I've forgotten the                                 |
| 19 | Q | Was it Manulife?                                   |
| 20 | A | No, no. Well, Manulife was one penalty. The        |
| 21 |   | other was a UK company. It was a small company     |
| 22 |   | that had a physical presence here.                 |
| 23 | Q | Okay. And the only penalty issued by FINTRAC in    |
| 24 |   | Canada was in 2006 to Manulife for \$1 million; is |

that right?

25

1 I think it was 2016 rather than 2006. Α 2 Oh, 2016. My mistake. Sorry. 3 Α That's the only penalty that I'm aware of that 4 has been published. 5 And even then FINTRAC kept that or tried to keep Q that penalty a secret. 6 Yeah, that's right. There was -- at that point 7 Α 8 the legislation gave them discretion to publish or not to publish, and they did not publish at 9 the time the penalty was issued. 10 11 US authorities, including the US Federal Reserve 0 12 and the New York State Department, have 13 sanctioned Canadian chartered banks and required 14 them to remediate their anti-money laundering 15 systems. Is that correct to your knowledge? 16 Α Yes. 17 And in particular it's the Bank of Nova Scotia, Q the Toronto-Dominion Bank and the Bank of 18 19 Montreal that were sanctioned? 20 Α I don't have direct knowledge, but that sounds 21 right. 22 Q Okay. And along with the sanctions, the US 23 authorities imposed audit requirements or 2.4 remediation requirements that required those

banks not only to improve their systems but to

| 1  |   | allow the independent investigators based in the |
|----|---|--|
| 2  |   | United States to audit the AML systems for those |
| 3  |   | chartered banks.                                 |
| 4  | A | I am aware of a few of those orders, yes.        |
| 5  | Q | Okay. And are any of those orders ongoing at the |
| 6  |   | present time?                                    |
| 7  | А | I don't have direct knowledge.                   |
| 8  | Q | All right. And to your knowledge has the Office  |
| 9  |   | of the Superintendent of Financial Institutions  |
| 10 |   | issued any remediation orders of that type?      |
| 11 | А | So I'm not aware of any penalties that OSFI has  |
| 12 |   | issued. OSFI has ordered remediation for AML     |
| 13 |   | for some financial institutions in Canada. Not   |
| 14 |   | anywhere near to that extent, I don't believe.   |
| 15 | Q | Does OSFI have the institution capacity to issue |
| 16 |   | prudential guidance to Canada's chartered banks? |
| 17 | А | I believe so.                                    |
| 18 | Q | And do they have the capacity to audit those     |
| 19 |   | banks?   |
| 20 | А | So there was OSFI largely or has scaled back     |
| 21 |   | significantly and disbanded its anti-money       |
| 22 |   | laundering specific group and so they've largely |
| 23 |   | deferred their anti-money laundering function to |
| 24 |   | FINTRAC as the primary regulator. Their          |
| 25 |   | guidance on the subject, what is it's called     |

| 1  |   | B8. It's known as guideline B8 from OSFI. The    |
|----|---|--|
| 2  |   | last time it was updated substantively was 2008. |
| 3  |   | It's been updated in minor ways because of       |
| 4  |   | governance implications since, but not to keep   |
| 5  |   | up with the changes in the legislation, the      |
| 6  |   | changes in the regulatory risk, the changes in   |
| 7  |   | the money laundering typologies, the changes in  |
| 8  |   | the approaches to money laundering generally.    |
| 9  | Q | So you would conclude, then, that OSFI is just   |
| 10 |   | not keeping up with the modern requirements for  |
| 11 |   | money laundering in terms of issuing prudential  |
| 12 |   | guidance to financial institutions?              |
| 13 | А | Yeah, there's you know, the 2008 guidance is     |
| 14 |   | stale and I think it's not truly used as a       |
| 15 |   | guidance document any longer. It's dated and     |
| 16 |   | it's not particularly relevant to today's        |
| 17 |   | legislation or environment.                      |
| 18 | Q | Is FINTRAC in a position to issue prudential     |
| 19 |   | guidance or audit financial institutions?        |
| 20 | А | Well, there are two parts to that question. I    |
| 21 |   | suppose the first part of the question I'd say   |
| 22 |   | is that FINTRAC is not a prudential regulator.   |
| 23 |   | You know, it's not its role. And, second, in     |
| 24 |   | terms of capacity, listen, as we went over just  |
| 25 |   | in the evidence just a moment ago, you know, the |

| 1  |   | FATF lamented the capacity of FINTRAC to just    |
|----|---|--|
| 2  |   | examine accountants in the country. When you     |
| 3  |   | think about the sophistication of, you know, a   |
| 4  |   | money laundering system at a financial           |
| 5  |   | institution, you know, you would need and the    |
| 6  |   | OCC in the US uses an army to assess compliance  |
| 7  |   | with anti-money laundering and especially        |
| 8  |   | sanctions legislation.                           |
| 9  | Q | Is the United States or are the United States    |
| 10 |   | authorities then taking extra claiming           |
| 11 |   | extra-territorial jurisdiction over Canadian     |
| 12 |   | financial institutions?                          |
| 13 | А | I think it's fair to say that there's a          |
| 14 |   | significant regulatory enforcement focus across  |
| 15 |   | the border, especially to the extent that        |
| 16 |   | Canadian financial institutions have a presence  |
| 17 |   | in the US. And I think it's important to         |
| 18 |   | remember that the US legislation, particularly   |
| 19 |   | its sanctions, have an extraterritorial effect   |
| 20 |   | built in particularly with the increased use of  |
| 21 |   | secondary sanctions where the US will sanction a |
| 22 |   | party that deals with a sanctioned party. And    |
| 23 |   | so there is that layering which certainly has    |
| 24 |   | been encroaching on Canadian territory for some  |
| 25 |   | time. The point is if you're                     |

| 1  | Q | Is the Royal Canadian oh, sorry. I didn't         |
|----|---|---|
| 2  |   | want to interrupt.                                |
| 3  | А | I was only going to say that if you're subject    |
| 4  |   | to a secondary sanction, so even if, you know,    |
| 5  |   | you're not a sanctioned violator yourself but     |
| 6  |   | you deal with a sanctioned individual and you're  |
| 7  |   | a financial institution, it could threaten to     |
| 8  |   | crowd you out of the entire US dollar market.     |
| 9  | Q | All right. And is the Royal Canadian Mounted      |
| 10 |   | Police to your knowledge assisting US authorities |
| 11 |   | investigating violations of US sanctions?         |
| 12 | A | You know, I think that there's a good deal of     |
| 13 |   | cooperation cross border on that front on the     |
| 14 |   | sanctions front.                                  |
| 15 | Q | Would it be fair to say that Canadian regulators, |
| 16 |   | OSFI and FINTRAC, have chosen to take a back seat |
| 17 |   | or been forced to take a back seat in relation to |
| 18 |   | the US regulators?                                |
| 19 | A | Well, listen, you know, I think that the US       |
| 20 |   | sanctions are the most powerful and persuasive    |
| 21 |   | ones. And it's you know, in my practice I've      |
| 22 |   | seen across financial institutions of all types   |
| 23 |   | and sizes, a focus on complying with US           |
| 24 |   | legislation far before Canadian ones and, you     |
| 25 |   | know, that has to do with in part, you know, the  |

A

| 1   |   | networks switches we use. Visa and Mastercard     |
|-----|---|---|
| 2   |   | insist on compliance with US standards to a       |
| 3   |   | large extent, including their sanctions           |
| 4   |   | requirements. And as a matter of practice most    |
| 5   |   | reporting entities I know of screen against US    |
| 6   |   | lists first and with greater detail than          |
| 7   |   | Canadian lists because when it comes down to it,  |
| 8   |   | there's very little enforcement of Canadian       |
| 9   |   | sanctions.  |
| 10  | Q | In Canada there's an override for US sanctions    |
| 11  |   | against Cuba so that Canadian financial           |
| 12  |   | institutions are permitted by regulation or even  |
| 13  |   | required by regulation to ignore the US sanctions |
| 14  |   | as they relate to Cuba; is that right?            |
| 15  | А | I'm aware of that. You know, in Europe they've    |
| 16  |   | adopted a number of measures that are meant to    |
| 17  |   | be safeguards against US sanctions. And so        |
| 18  |   | yeah, in Canadian law there's there is that       |
| 19  |   | Canadian law with respect to Cuba.                |
| 20  | Q | Would it be possible, then, for Canada to enact   |
| 21  |   | regulations that would override US sanctions as   |
| 22  |   | it relates to Canadian financial institutions     |
| 23  |   | engaging in financial transactions here in        |
| 24  |   | Canada?   |
| 0.5 | - |   |

I suppose it would be possible. It creates an

1 entirely -- a very sticky wicket. You know, 2 when you face -- and financial institutions 3 grapple today with that Cuban regulation because 4 of the apparent conflict and knowing that there 5 are significant consequences of not recognizing US sanctions. 6 7 Q All right. To your knowledge is either FINTRAC 8 or OSFI participating in the US-based remediation 9 orders, in that audit process? I don't know. 10 Α 11 0 All right. 12 А Although there are MOUs that would permit that information to be shared. 13 14 MR. GRATL: All right. And those are my questions, 15 Mr. Commissioner. 16 THE COMMISSIONER: Thank you, Mr. Gratl. Anything 17 arising, Mr. Soltan? 18 MR. SOLTAN: No, Mr. Commissioner. Thank you. 19 THE COMMISSIONER: Thank you. Mr. Pratte? 20 MR. PRATTE: No, thank you, Mr. Commissioner. 21 THE COMMISSIONER: Thank you. Mr. Isaac? 22 MR. ISAAC: No, thank you, Mr. Commissioner. 23 THE COMMISSIONER: All right. Thank you, then, for 2.4 your assistance that you've given to us in

relation to this very interesting and

Matthew McGuire (for the Commission) Exam by Mr. Gratl

| 1  | complicated area. I'm very appreciative of the     |
|----|--|
| 2  | time you've taken and the effort you've made to    |
| 3  | educate us in relation to the accounting           |
| 4  | professionals, Mr. McGuire. I expect we'll hear    |
| 5  | more about that in the ensuing days as well.       |
| 6  | But we will adjourn now until 9:30 tomorrow        |
| 7  | morning then, Mr. Isaac.                           |
| 8  | THE REGISTRAR: The hearing is adjourned until      |
| 9  | January 12th, 2021, at 9:30 a.m. Thank you.        |
| 10 | THE COMMISSIONER: Thank you.                       |
| 11 | (WITNESS EXCUSED)                                  |
| 12 | (PROCEEDINGS ADJOURNED AT 2:22 P.M. TO JANUARY 12, |
| 13 | 2021)  |
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