

October 15, 1998

DELIVERED BY FAX

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Attention: Mr. R.A. Wattie

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Attention: Ms. Maria Morellato

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Attention: Mr. Stein K. Gudmundseth

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Attention: Mr. David A. Critchley

Mr. Martin Chia
GM Mushroom Farms
1388 - 855 West Georgia Street
Vancouver, BC V6C 3E8

Dear Sirs/Mesdames:

**RE: APPEALS BY BRADNER MUSHROOM FARM LTD. AND ALL
SEASONS MUSHROOM FARMS INC. FROM A SEPTEMBER 30, 1998
DECISION OF THE BRITISH COLUMBIA MUSHROOM MARKETING
BOARD CONCERNING THE TRANSFER OF PRODUCT BETWEEN
AGENCIES**

The members of the British Columbia Marketing Board (BCMB) hearing panel have reviewed the following documents relating to the request by Mr. Martin Chia, on behalf of GM Mushroom Farms, a shareholder in All Seasons Mushroom Farms Inc. (All Seasons), for intervenor status:

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- October 9, 1998 letter from Mr. Chia;
- 2nd October 9, 1998 letter from Mr. Chia (re: level of intervention requested);
- October 13, 1998 letter from Ms. Maria Morellato;
- October 13, 1998 letter from Mr. David Critchley; and
- October 13, letter, with attachment, from Mr. Chia.

Based on the foregoing review, the panel is not prepared to grant intervenor status to Mr. Chia. The test for whether it is appropriate to grant intervenor status to a particular party is two-fold:

1. Does the party seeking intervenor status have a valid interest in the outcome of the appeals?
2. Does the party seeking intervenor status provide any specific assistance in the proceeding with the issues he proposes to raise? For example, does the party have specific knowledge or information or a unique perspective that would be of assistance to the panel that is not available by any other means?

With respect to the first branch of the test, the panel is prepared to find at best that Mr. Chia, as a minority shareholder of All Seasons, may have an interest in whether Bradner Mushroom Farms Ltd. is entitled to transfer its production to All Seasons.

However, the panel finds that Mr. Chia's application fails on the second branch of the test. The panel does not believe that Mr. Chia's grounds for intervention will assist in the hearing of the appeals. The issue that he raises regarding a dispute between shareholders of all Seasons is more properly dealt with by the Supreme Court. Mr. Chia wishes to give evidence on the viability of All Seasons. The panel notes that this issue is currently before the British Columbia Mushroom Marketing Board (Mushroom Board).

The issue before this panel on appeal is the narrow issue of the ability of a grower to transfer production from one agency to another. Any decision the BCMB makes on these appeals will not prejudice the ability of the Mushroom Board or the BCMB to consider the issue of the viability of All Seasons. These are separate issues and should be dealt with as such.

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Finally, the Respondent and Money's Mushrooms Ltd., an intervenor in this appeal with the right to present evidence and cross examine, are experienced in hearings before the BCMB. Should either of them feel that Mr. Chia has evidence particular to him that would assist this panel, it is open to them to call him as a witness. Thus, it is possible for the panel to receive any relevant evidence through means other than granting intervenor status to Mr. Chia. In making this decision the panel is mindful of the desire to avoid unduly complicating what is a narrow issue on appeal. There are other forums in which it may be more appropriate for Mr. Chia to seek intervenor status.

Based on the materials filed, the panel finds that Mr. Chia has not shown sufficient grounds to support his request for intervenor status.

If a person, marketing board or commission is aggrieved or dissatisfied by an order or referral of the BCMB under section 9(1) of the *Natural Products Marketing (BC) Act*, the person, marketing board or commission may appeal the order or referral on a question of law to the Supreme Court if the appeal is commenced within 30 days of being served with a copy of the order or referral.

Yours truly,

(Original signed by):

Jim Collins
Manager
Dispute Resolution Services