

**BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD
SUPERVISORY REVIEW HEARING BRIEF**

Video Conference
February 9, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING

COPY

- 1 A No.
2 Q So you'd never met Harjeet or Nupinder Bajwa
3 before this email?
4 A No.
5 Q All right. Now, you'll see the email tells you
6 that Bajwa Farms is owned by Harjeet and Nupinder
7 Bajwa, right? It tells you they're involved in a
8 marital domestic dispute that may not get
9 resolved in the next 60 days.
10
11 In the interim, the court gave Nupinder
12 possession of the family home and farm. You
13 should also know Nupinder is the sister of
14 Bob Dhillon, and that Bob has been actively
15 involved in this matter.
16
17 What did you understand from that?
18 A Well, this is a -- this is not a matter that the
19 Commission gets involved with, and I can only
20 assume that -- I don't know why it would be
21 relevant to the request. But I can assume that
22 -- my assumption is that everyone knew about the
23 legal matters with Prokam and that is why it was
24 put in there.
25 Q All right, thank you. Do you recall responding
26 to Mr. Driediger? Did you call him or discuss it
27 with him? I didn't see an email in response, but
28 did you have -- did you send an email in
29 response? Do you recall?
30 A I believe this was a response to a phone call,
31 saying -- basically requesting that DA be used,
32 and I asked Murray to put it into an email.
33 Q Okay. So Mr. Driediger had called you about
34 this, and you asked him to put it in an email, is
35 that right?
36 A Correct.
37 Q All right. Did you call him back after this?
38 A I don't remember.
39 Q I'm going to take you to document 4483, and 4483
40 is an analysis. It says:
41
42 BCVMC, Bajwa Farms Ltd. and Harjeet Bajwa,
43 2020/2021 situation and analysis.
44
45 Do you see that?
46 A Correct.
47 Q Okay. Did you prepare this?

- 1 A Correct.
- 2 Q So just so I understand, there's a request from
- 3 BCfresh to be -- find a way to use Mr. Bajwa's
- 4 cabbage that he had grown from Mr. Driediger?
- 5 A To find -- to use the delivery allocation.
- 6 Q Right. You then come up with a proposal that you
- 7 put -- a recommendation that you put in front of
- 8 the Commission, right?
- 9 A Correct.
- 10 Q The Commission rejects that recommendation, but
- 11 you then come up with a different solution, which
- 12 is --
- 13 A No, they -- sorry to -- but they did -- they
- 14 accepted the recommendation.
- 15 Q All right. So the recommendation that you put
- 16 forward was to use this interim administrative
- 17 policy?
- 18 A Correct.
- 19 Q Okay.
- 20 A And to not -- that they are not permitted to use
- 21 the delivery allocation earned by Bajwa Farms
- 22 Limited.
- 23 Q All right. Okay. So the question -- a couple of
- 24 questions I have is -- so you say in the first
- 25 sentence:
- 26
- 27 The Commission has reviewed your request for
- 28 market access for green and red cabbage you
- 29 had grown this year on your own, independent
- 30 of Bajwa Farms.
- 31
- 32 Right?
- 33 A Correct.
- 34 Q Now, we know as we go along, and I'll take you to
- 35 the documents, that it turns out, at least on
- 36 paper, that it was Van Eekelen that grew the
- 37 cabbage?
- 38 A Correct.
- 39 Q So I'm trying to understand what you understood
- 40 here when you said "you had grown this year on
- 41 your own." Referring it to -- as if he had grown
- 42 it on his own, independent of Bajwa Farms, as
- 43 opposed to saying the cabbage grown on Van
- 44 Eekelen's farm. What did you understand as to
- 45 where this cabbage -- at this point, where the
- 46 cabbage had been grown and to whom it belonged?
- 47 A At this point, I understood it was grown by like

1 Mr. Bajwa himself.

2 Q And where did you think he had grown it?

3 A I don't know.

4 Q And the other question is did it occur to you to
5 contact Bajwa Farms, I mean Ms. Bajwa, to let her
6 know that this was happening?

7 A No, I didn't think of that, because the delivery
8 allocation, it was refused. So I did not think
9 that it would be necessary to contact Ms. Bajwa.

10 Q I'm going to take you to document 4540, which is
11 a letter written -- I'll just take you to the
12 bottom. It's written by yourself, to Mr. Bajwa,
13 and a copy to Mr. Driediger. And then you set
14 out in the letter what the Commission's
15 understanding of the situation is, right?

16 A Correct.

17 Q Okay. And you set out in bullet number three
18 that Ms. Nupinder Bajwa has been given control of
19 the Bajwa Farms until the matter is resolved, and
20 then you go on to say:

21
22 Mr. Harjeet Bajwa has planted a crop of
23 storage-variety green and red cabbage on the
24 assumption that the matter will be resolved
25 and he would have access to delivery
26 allocation earned by Bajwa Farms in the fall
27 of 2020.

28
29 And you go on to discuss the various pieces,
30 right?

31 A Correct.

32 Q All right. And then you state at the bottom:

33
34 The Commission has made the decision that
35 Mr. Bajwa cannot use the delivery allocation
36 that has been earned by Bajwa Farms Ltd.
37 unless the product is shipped through Bajwa
38 Farms Ltd., therefore the crop is to be
39 treated as if it were planted without
40 delivery allocation and that the application
41 be administered as interim administrative
42 policy.

43
44 Right?

45 A Correct.

46 Q And then you say:

47

1 We will write a letter addressed to Nupinder
2 Bajwa as per written confirmation.
3
4 Do you know if this letter was written that you
5 reference in this letter?
6 A No, it hasn't.
7 Q And why was that?
8 A I just -- I forgot.
9 Q And I'm going to go to -- I didn't take you to
10 the email that Suzanne Babcock -- Suzanne Babcock
11 sent an email, we know -- you've seen, and she
12 sent the email to Ms. Bajwa and Harjeet Bajwa,
13 and thus came this letter of November 6, 2020
14 from counsel for Ms. Bajwa, correct?
15 A Correct.
16 Q All right. And you received this letter from
17 counsel for Ms. Bajwa, or for B.C. -- for Bajwa
18 Farms?
19 A That's correct.
20 Q Okay. You recall receiving this letter, right?
21 A Yes.
22 Q All right. And you've seen this letter. I'm not
23 going to take you [indiscernible] of this letter,
24 but I'll take you to the next document. And
25 there's an email on November 7th from Mr. Dalke
26 to Mr. Driediger and Brent Macklin, yourself and
27 various others, right?
28 A That is correct, yes.
29 Q All right. And do you recall receiving this?
30 A Yes.
31 Q And I'm showing you an email from Ms. Babcock to
32 Marina Van Eekelen. Do you know who that is?
33 A That's -- that's Van Eekelen Farms, and they are
34 registered as a producer processing crops
35 [indiscernible].
36 Q It looks like on November 9th, Suzanne Babcock is
37 indicating they just received the application for
38 producer licencing for Van Eekelen with regard to
39 cabbage. Do you -- right?
40 A Correct.
41 Q All right. And then she said:
42
43 This licence I'm issuing will supersede your
44 prior licence.
45
46 So did they already have a licence?
47 A That is correct, yeah.

1 Q So can you explain why they needed to apply then
2 for another licence?

3 A Well, it's annual -- it's an annual process.

4 Q Okay.

5 A And in this case, they're adding another crop
6 that they would be producing, so we had them
7 licenced for processing crops. So that was
8 producing cabbage.

9 Q Right. And I'm just going to -- just give me a
10 moment here. Sorry. This is the Commission's
11 response on November 9th, written to Mr. Dalke,
12 Mr. Driediger, Van Eekelen and Brent Macklin and
13 [indiscernible], right?

14 A Correct.

15 Q And it's written by you?

16 A Correct, yes.

17 Q You say:

18
19 While your letter provides notice of your
20 client's position on this matter, it seems
21 likely this position would be contested by
22 other persons. Consequently, the Commission
23 cannot direct that proceeds from the sale of
24 the cabbage by Harjeet Bajwa or Van Eekelen
25 be [indiscernible] to Bajwa Farms.

26
27 So -- we're now at November 9th, so I'm just
28 trying to -- November 2nd, you were referring to
29 it as Harjeet Bajwa's cabbage, and November 9th
30 you're now referring to it potentially as Van
31 Eekelen's. What was your understanding as to
32 what had occurred there? In other words, now it
33 seems you're unclear as to who -- to whom the
34 cabbage belongs.

35 A Well, my initial understanding, you know, I was
36 approached -- or -- or that BCfresh was
37 approached by Harjeet. And -- and now it appears
38 that maybe Harjeet is the person that approached
39 us, but that the producer who is actually
40 producing the cabbage is Van Eekelen.

41 CNSL N. MITHA: Okay. If somebody could help me, I'm
42 looking for the letter written by Van Eekelen's
43 counsel. I've just lost the number. Does
44 anybody have that handy?

45 CNSL R. HIRA: 4590.

46 CNSL N. MITHA: Thank you.

47 Q So that was November 9th. I'm taking you to a

1 A Correct.
2 Q So they provide you this letter. You recall
3 receiving it?
4 A Yes.
5 Q And they asked for various information and they
6 set out information they were looking for on page
7 4675 and there's five -- six numbered items that
8 they're looking for, right?
9 A Correct.
10 Q Sir, this is a letter written by counsel for the
11 Commission, responding to that letter of November
12 25th, and this is document 4692, for the record,
13 and it's dated December 15th, 2020, right?
14 A Correct.
15 Q And this responds to the request for information
16 set out in the previous letter of November 25th,
17 right?
18 A Correct.
19 Q I think I've asked this question, but I guess I
20 want to understand what happened, because it
21 seemed at the outset there were discussions
22 between yourself and Mr. Harjeet Bajwa about the
23 cabbage being grown by him later in this
24 response. We can see your counsel says it's Van
25 Eekelen that became licenced, and Van Eekelen's
26 cabbage, in effect, right?
27 A Correct.
28 Q And then it says:
29
30 No other applications were submitted by
31 Harjeet Bajwa.
32
33 Right?
34 A Correct.
35 Q So you had suggested that Mr. Bajwa submit what's
36 called a multi-farm registration licence for that
37 type of licence, but then he -- that didn't
38 happen. What --
39 A That didn't --
40 Q -- occurred --
41 A Yeah, that didn't happen, and so there was no
42 application submitted by Mr. -- Mr. Harjeet
43 Bajwa.
44 Q And I guess I want to get to what happened there.
45 In other words, you start off by saying submit
46 this type of application, and then all of a
47 sudden it became Van Eekelen submitting an

1 application for licence. So I'm trying to
2 understand what happened there.

3 A Well, I was under the impression initially it was
4 Harjeet Bajwa that had produced the cabbage and
5 was applying for this application on his own, and
6 my understanding now is that it was Van Eekelen,
7 and that Harjeet Bajwa was acting on behalf of
8 Van Eekelen to submit the request.

9 Q Is the Commission aware of the business or
10 financial relationship between Harjeet Bajwa and
11 Van Eekelen?

12 A No.

13 Q All right, sir, those are my questions on the
14 Bajwa matter.

15 I'm going to move on finally to the MPL
16 issues. You have seen MPL's Notice of Civil
17 Claim?

18 A Yes.

19 Q All right. And I'm going to take you to -- well
20 -- and you know, of course, that MPL submitted --
21 in September 2020, MPL submitted an application
22 for an agency licence?

23 A In September 2020, correct.

24 Q All right. I want to take you to a timeframe
25 just before that. I'm going to take you to
26 document 4379. Document 4379 is a letter from
27 Dentons, counsel for MPL, on June 22nd, 2020. Do
28 you see that?

29 A I do. Yes, correct.

30 Q All right. And I'm going to take you to page
31 4380, and I'll take you to the bottom of page
32 4380 and steps -- there's a heading called "Steps
33 Going Forward," and underneath that it says:

34
35 In light of this, Mastronardi has two
36 requests. The first is the supervisory
37 panel and the VMC should commit to a prompt
38 target date by which the moratorium is
39 lifted.

40
41 Right?

42 A Correct.

43 Q And then second:

44
45 Mastronardi requests the supervisory panel
46 and VMC provide a timeline in which agency
47 applications will be considered.

1 CNSL N. MITHA: Thank you.
2 THE CHAIRPERSON: Okay, Mr. Dalke.
3 CNSL D. DALKE: Thank you. Good afternoon.
4

5 CROSS-EXAMINATION BY CNSL D. DALKE:
6

7 Q Mr. Solymosi, one of the objects of the
8 Commission is to achieve the orderly marketing
9 regulated crops, correct?
10 A Correct.
11 Q And that requires that producers be licenced,
12 correct?
13 A Correct.
14 Q And --
15 THE RECORDER: Sorry. Sorry, Mr. Dalke, Mr. Solymosi,
16 you seem to have faded away a bit.
17 A Sorry.
18 THE RECORDER: Thank you. My first yell.
19 A That's correct.
20 CNSL D. DALKE:
21 Q And the purpose of the licence is to make sure
22 that only qualified producers can grow regulated
23 product, correct?
24 A Correct.
25 Q And in fact, the general orders of the Commission
26 prohibit a producer from growing or even planning
27 to grow product without having a licence first,
28 correct?
29 A Correct.
30 Q Okay. And the licence that's issued by the
31 Commission specifies both the specific crops that a
32 producer is licenced to grow, and the location at
33 which those crops will be grown, correct?
34 A Just the specific crops, not the location.
35 Q And a licenced producer can't -- it can only sell
36 the product it grows, it can't sell product it
37 acquires from others unless it gets specific
38 authorization for that, correct?
39 A Can you repeat the question?
40 Q A licenced producer can only market or sell the
41 product that it grows. It can't acquire product
42 from others and sell that, unless it has a
43 specific separate authorization to do that?
44 A Correct.
45 Q Okay. And the Commission expects that the
46 licencing occurs before a producer starts growing
47 a crop, correct?

- 1 A Hold on. Going back to the other -- you
2 mentioned selling or shipping? On --
3 Q Well, I -- let's say shipping, I guess.
4 A Yeah. So shipping, correct.
5 Q Okay. And selling -- it sells to the agency,
6 which then sells on, correct?
7 A Well, the agency sells the product.
8 Q Okay. And so the producer shipping to the
9 agency, they can only do that -- they can only
10 ship their own product, not the product of
11 others, correct?
12 A Correct.
13 Q Okay. And the Commission's expectation is that
14 licencing occurs before a producer starts
15 growing, correct?
16 A Licencing occurs before a producer can start
17 shipping.
18 Q And before they start growing, correct?
19 A I would not know if the product has been grown or
20 not. My only concern is -- or the Commission's
21 only concern would be that a producer is licenced
22 before that product is shipped into the
23 market space.
24 Q And the general orders, though, require that a
25 producer be licenced before they start growing,
26 correct?
27 A A producer be licenced before they start growing?
28 Q Correct.
29 A They be licenced before they can be given access
30 to the market.
31 Q Okay. Maybe I'll just ask you to look at the
32 general orders, the one that begin at page 4602
33 in the common book of documents, and in
34 particular, at page 4613. Do you recognize these
35 as the -- pardon me, I'll just -- I'm sharing my
36 screen with the -- do you recognize these as the
37 general orders of the Commission?
38 A Yes.
39 Q Okay. So s. 10 refers to:

40
41 No producer shall grow, process or market
42 regulated product unless that producer
43 registers with the Commission, is qualified
44 to and obtains annually from the Commission
45 one or more of the appropriate licences.
46

47 That's the general orders, correct?

1 A Correct.

2 Q And then down a few pages, s. 21, "No producer,"
3 and then --

4
5 ... shall operate without a licence.
6

7 Subparagraph (c_):
8

9 Any person who plans to produce or producers
10 regulated product must obtain a producer's
11 licence.
12

13 Correct?

14 A Correct.

15 Q Those are the general orders that apply to
16 producers, correct?

17 A Correct.

18 Q And the Commission has a role in enforcing those
19 general orders?

20 A Correct.

21 Q Okay. The process for applying for producer
22 licences, that's not something that you usually
23 get involved with. Your staff handle that,
24 correct?

25 A Can you repeat that?

26 Q The process of producers applying for licences,
27 that's not something that you usually get
28 involved with. You have staff who handle that,
29 correct?

30 A The process for producers applying for licences
31 would be done by my staff, correct?

32 Q Suzanne Babcock normally handles those producer
33 licence applications, correct?

34 A Correct.

35 Q And she would deal with producers directly
36 respecting their applications, correct?

37 A Correct.

38 Q And the producers would typically send in their
39 own applications to Ms. Babcock directly?

40 A Correct.

41 Q You were interviewed by Hearing counsel, Naz
42 Mitha, on November 29, 2021, correct?

43 A Correct.

44 Q And you had an opportunity to review the witness
45 statement that you prepared after that interview,
46 in particular, the section under the heading
47 "Bajwa Issues," the -- questions 22 to 25?

1 And you confirmed that was your view when Mr.
2 Mitha was asking you questions earlier --
3 A Correct.
4 Q -- right?
5 A Yeah.
6 Q And Mr. Mitha asked you to explain what happened
7 to the cabbage, how it changed from being Harjeet
8 Bajwa's cabbage to Van Eekelen's cabbage, and I
9 understood your response to be that you were
10 under the impression at first that it was Harjeet
11 Bajwa's cabbage, and that your understanding now
12 is that it's Van Eekelen's cabbage, correct?
13 A Correct.
14 Q And that's the extent of what you told Mr. Mitha
15 in terms of your knowledge as to how the
16 ownership of that cabbage seemed to change in the
17 documents that Mr. Mitha referred you to,
18 correct?
19 A Correct.
20 Q And you didn't offer any explanation to Mr. Mitha
21 as to your further knowledge as to how or why
22 that change occurred, correct?
23 A It's -- it wasn't a concern. The issue here is
24 around having a producer licenced and providing
25 that producer with access, the benefit of -- that
26 producer to have access to the market, according
27 to a policy that we developed.
28 Q Okay. My question for you, Mr. Solymosi, was
29 that when Mr. Mitha asked you that question, for
30 an explanation as to how that changed, you didn't
31 offer him any further explanation as to how or
32 why that changed, correct?
33 A No.
34 Q Okay. And you have no further knowledge as to
35 how or why that changed?
36 A No.
37 Q I suggest to you, sir, that you were actually
38 intimately involved in the change of the cabbage
39 being owned by Mr. Bajwa and to Van Eekelens. Do
40 you agree with that?
41 A No.
42 Q The Commission plays a critical role in food
43 safety, correct?
44 A The Commission -- yes.
45 Q And the Commission requires --
46 A Well, it -- there's nothing in the general orders
47 that refers to food safety, but it is -- it is

- 1 Q As part of the licencing that the Commission
2 does, the Commission makes sure that the
3 producers have a food safety certificate for
4 those crops, correct?
- 5 A We keep it on file, so we encourage it, and keep
6 it on -- on file.
- 7 Q And I think in your earlier evidence, you
8 described the close relationship between the
9 Commission and the agencies. You see the
10 agencies as agents of the Commission, correct?
- 11 A Correct.
- 12 Q And the Commission works closely, in particular,
13 with BCfresh, correct?
- 14 A The Commission works closely with all agencies.
- 15 Q Yeah, perhaps that's too general, right?
- 16 A Right.
- 17 Q The Commission relies on agencies, in particular
18 BCfresh, for market information, correct?
- 19 A Storage crops, I -- BCfresh is the largest, and
20 we do rely on BCfresh for market information,
21 correct.
- 22 Q And you're aware that BCfresh keeps a close watch
23 on the products that are being grown by producers
24 who sell to BCfresh, correct?
- 25 A Can you repeat that, please?
- 26 Q You're aware that BCfresh keeps a close watch on
27 the products that are being grown by producers
28 who sell through BCfresh?
- 29 A I would assume that they -- they do.
- 30 Q You know that --
- 31 A [Indiscernible].
- 32 Q -- you don't have to assume, though, sir. You
33 know from your experience from dealing with
34 BCfresh that they have detailed acknowledge about
35 the crops that are grown by their producers,
36 correct?
- 37 A I would -- correct.
- 38 Q And you know that they keep in close contact with
39 their producers well in advance of shipping time
40 to manage the quality of the products that are
41 produced by their producers, correct?
- 42 A Can you repeat that again?
- 43 Q You're aware that BCfresh stays in close contact
44 with its producers to manage the quality of the
45 crops, and that's done in advance of shipping
46 times, correct?
- 47 A Well -- well, I don't work for BCfresh, but I

1 would -- they're a well organized company, and I
2 would think that that would be the case. So
3 correct.

4 Q Okay. And you deal with Murray Driediger of
5 BCfresh extensively, correct?

6 A Mr. Driediger is the -- is in the position of the
7 general manager of that agency, so correct.

8 Q Right. And you obtain a lot of information, both
9 general market level information and information
10 about specific producers from Mr. Driediger,
11 correct?

12 A Correct.

13 Q And you've had a long working relationship with
14 Mr. Driediger? You worked under him when he was
15 general manager of the Commission, correct?

16 A I wouldn't say it's long. When I was there in
17 '97, it was for a couple -- a couple months, just
18 a few months overlap, but I was hired by another
19 manager. And in 2004, it was maybe a -- a couple
20 of years. I believe he left maybe in 2000 -- I'm
21 not -- I can't -- it was not more than that. And
22 then I worked for [indiscernible].

23 Q Okay. Is it fair to say you have a high degree
24 of trust in the information that Mr. Driediger
25 provides you?

26 A I absolutely have a high degree of trust in the
27 information provided by Mr. Driediger.

28 Q Okay. And you know him to be diligent in
29 overseeing the producers that produce through
30 BCfresh?

31 A Murray would be a hands-on person, so I would
32 assume that he would be diligent. So correct.

33 Q Mr. Mitha referred you to the September 18, 2020
34 email from Mr. Driediger to you. do you recall
35 that?

36 A Can you repeat that?

37 Q And that was preceded by a phone call between you
38 and Mr. Driediger, correct?

39 A Correct.

40 Q Did you take any notes of that telephone call?

41 A No, I asked him to put in his request in an
42 email.

43 CNSL D. DALKE: Okay. And I'm just going to pull up
44 the email. It's document 4455.

45 CNSL R. HIRA: My -- do you want me to put the
46 [indiscernible] copy of the document in front of
47 the witness?

1 CNSL D. DALKE: Sure, that's fine. I'll put it up on
2 the shared screen as well.

3 Q Do you see that, Mr. Solymosi?

4 A Yes.

5 Q And you've got the paper copy in front of --

6 okay. So the information that Mr. Driediger
7 relayed to you in this email, you trusted Mr.
8 Driediger to be providing you true and correct
9 information, correct?

10 A Correct.

11 Q And I'll refer you to paragraph 3. It says:

12
13 Harjeet Bajwa has grown green and red
14 cabbage for storage this year. Financially,
15 he has grown the cabbage on his own, without
16 using any equipment or finances from Bajwa
17 Farms. He is doing int with the help of
18 other farms who are trying to help him get
19 on his feet again. He would like to ship the
20 cabbage through BCfresh.

21
22 Do you see that?

23 A Whereabouts is that?

24 Q Paragraph 3 in the email.

25 A Yes. Correct.

26 Q Do you agree that if all of the cabbage was
27 ultimately belonging to Van Eekelen, that what
28 Mr. Driediger says in paragraph 3 there would
29 actually be incorrect?

30 A That would be correct.

31 Q Okay. There's no mention in Mr. Driediger's
32 email of Van Eekelen producing cabbage, correct?

33 A Correct.

34 Q And then in terms of the specific request by Mr.
35 Bajwa, he writes:

36
37 He would like to ship the cabbage through
38 BCfresh. In his view, he is still an owner
39 of Bajwa Farms and has DA. If his wife
40 chose not to grow the cabbage, then he has a
41 right to a DA, but the proceeds cannot go
42 through Bajwa Farms, as they have no
43 financial involvement in the growing of the
44 crop.

45
46 Do you see that?

47 A Where are you right now?

1 Q The bottom half of paragraph 3.
2 A Sure. This is the information that was provided.
3 Q That's right. And Mr. Driediger was asking you
4 to help Mr. Bajwa find a way to use Bajwa Farms
5 DA and get market access for the cabbage that Mr.
6 Bajwa grew without having the proceeds go through
7 Bajwa Farms, correct?
8 A Could you repeat that, please?
9 Q Mr. Driediger was asking you to help him and
10 Bajwa and Harjeet Bajwa market the cabbage while
11 using the delivery allocation from Bajwa Farms,
12 but ensuring the proceeds don't go through Bajwa
13 Farms, correct?
14 A He was acting for the use of DA of Bajwa Farms.
15 Q Right. But he clearly specified that he didn't
16 want the proceeds to go through Bajwa Farms,
17 right?
18 A Where does it -- where does that say there?
19 Q The second-last line of paragraph 3.
20 A Sure. Correct.
21 Q Right. And you noted at paragraph 4:
22
23 I do not think there will be any agreement
24 to transfer the DA to Harjeet absent a
25 broader settlement with the court, as it
26 forms part of the assets.
27
28 See that?
29 A Yeah.
30 Q Okay. You had some conversations with Mr.
31 Driediger after this email about the request?
32 A I had a conversation with Harjeet --
33 Q Okay. No subsequent --
34 A -- Mr. Bajwa.
35 Q Pardon me.
36 A Mr. Bajwa.
37 Q Did you have any subsequent conversations with
38 Mr. Driediger?
39 A No.
40 Q Okay. And you had some conversations with
41 Harjeet Bajwa, correct?
42 A I had a conversation with him to confirm his
43 request.
44 Q Okay. Was that the only conversation you had
45 with him?
46 A Correct.
47 Q What --- can you tell me everything you remember

1 from that conversation?

2 A No, the one -- the only conversation I had was
3 that you -- you know, can you verify that you are
4 requesting the use of [indiscernible] for Bajwa
5 Farms.

6 Q Okay. Anything else you recall?

7 A No.

8 Q Did you take any notes of that call?

9 A No.

10 Q Do you see the last paragraph of the email?
11 You've got a paper copy of it in front of you
12 there? He writes:

13
14 This is without a doubt the most unusual
15 situation I have been involved in and I'm
16 not sure how to proceed. No one has done
17 anything wrong.

18

19 A Yeah, I see that.

20 Q Had anyone made an allegation of any wrongdoing
21 to you at that point?

22 A I was totally unaware of any of this, and it's
23 not a matter that would be of a concern to myself
24 or the Commission.

25 Q Did it strike you as odd that Mr. Driediger was
26 asserting that no one has done anything wrong
27 when nobody had made any assertion of wrongdoing
28 at that point?

29 A No.

30 Q Okay. In paragraph 1 of this email, he refers to
31 the court giving Nupinder possession of the
32 family home and the farm. Do you see that?

33 A Correct, yeah.

34 Q Did you ever ask Mr. Driediger for specifics, or
35 look for or seek out the court order that gave
36 Nupinder Bajwa possession of the family home and
37 farm?

38 A No.

39 Q Okay. So after this email, you worked with Mr.
40 Bajwa -- you had a conversation with him and Mr.
41 Driediger to find -- to come up with a plan in
42 order to get access to the market for the cabbage
43 that Mr. Bajwa grow -- grew, and you did that --
44 came up with a plan that specifically didn't
45 require getting Nupinder Bajwa's consent,
46 correct?

47 A No.

1 Q You didn't try to get her consent to the plan
2 that you were hatching with Mr. Driediger and Mr.
3 Bajwa, correct?

4 CNSL R. HIRA: With respect, I object. That may be
5 argument, but that's not a proper question. The
6 first question had two questions built into it.
7 The second question, which I'm also objecting to,
8 has assumptions built into it that you haven't
9 yet established.

10 CNSL D. DALKE:

11 Q The email -- at paragraph 4, Mr. Driediger
12 writes:

13
14 I do not think there will be any agreement
15 to transfer the DA to Harjeet absent a
16 broader settlement with the court, as it
17 forms part of the assets.

18
19 Did you speak to -- or seek to speak to Nupinder
20 Bajwa to see if there would be any agreement to
21 transfer the Bajwa Farms DA to Mr. Bajwa, or to
22 allow the cabbage to ship using the Bajwa Farms
23 DA?

24 A No.

25 Q In fact, you never had any contact with Nupinder
26 Bajwa about the plan that you put to the
27 commissioners with respect to this cabbage,
28 correct?

29 A I had no communication with Nupin -- with
30 Nupinder Baja. And it wasn't a plan, it was a
31 recommendation that was put forward to the
32 Commission.

33 Q Okay. And you never had any plan to tell
34 Nupinder Bajwa that Harjeet Bajwa was trying to
35 get market access for the cabbage he grew using
36 the Bajwa Farms delivery allocation, correct?

37 A Can you repeat that, please?

38 Q You never had any plan to tell Nupinder Bajwa
39 that Harjeet Bajwa was trying to get market
40 access for the cabbage he grew using the Bajwa
41 Farms delivery allocation, correct?

42 A Can you repeat it again?

43 Q You never had any plan to tell Nupinder Bajwa
44 that Harjeet Bajwa was trying to get market
45 access for the cabbage he grew by using the
46 delivery allocation for Bajwa Farms, correct?

47 A Correct.

- 1 Q And that got out by accident when the November
2 2nd email was sent to the Bajwa Farms email
3 address, correct?
- 4 A That -- the decision was issued at that time, so
5 that was a different -- at a different time. so
6 I don't -- yeah.
- 7 Q The decision -- when the decision was made and
8 when you wrote to Harjeet Bajwa on November 2nd,
9 that was sent to the Bajwa Farms email address
10 inadvertently, and that's how Nupinder Bajwa
11 became aware of the application by Harjeet Bajwa
12 to use the delivery allocation for Bajwa Farms,
13 correct?
- 14 A It was -- yeah, it was the decision -- email of
15 the decision that was issued to Bajwa Farms by
16 Suzanne.
- 17 Q Right. Mr. Mitha referred you to document 4504,
18 the Situation Analysis that you prepared? I'll
19 put it up on the screen as well. Do you see
20 that?
- 21 A Yes.
- 22 Q And you confirmed for Mr. Mitha that this was
23 prepared by you, it was prepared for the
24 commissioners as background to the decision you
25 were asking them to make on Harjeet Bajwa's
26 application to use --
- 27 A I -- I was relaying all the background
28 information that was provided to me. So correct.
- 29 Q Right. And if the commissioners were making a
30 decision based on this information, it's
31 important for them to have accurate information,
32 correct?
- 33 A Can you say that again?
- 34 Q If the commissions are using this Situation
35 Analysis to make a decision, it's important that
36 they have accurate information, correct? And
37 It's important for you to document the source of
38 the information that you put to the
39 commissioners, correct?
- 40 A It was provided, correct.
- 41 Q Sorry, the source of the information was
42 provided?
- 43 A The email received from Mr. Driediger --
- 44 Q Mm-hm?
- 45 A -- was provided.
- 46 Q That was provided?
- 47 A [Indiscernible] -- we -- when -- it would have

1 been provided -- I believe it was at the meet --
2 at a Commission meeting before this. And --
3 Q And how --
4 A -- a panel struck.
5 Q So --
6 A Or -- or this was put to a vote after the
7 meeting.
8 Q Okay. So was this discussed at a meeting, aside
9 from the email vote that you circulated?
10 A Which -- which -- what was the date on this?
11 Q This has a date of October 28th. It's got a
12 printed date of October 28th. Do you know if
13 that's the date you prepared it?
14 A Correct. That was the date it was printed. And
15 I -- I stand to be corrected, but I believe it
16 was brought forward to a Commission meeting with
17 the request from Murray attached, and that we did
18 not have time to address it, so it was put to a
19 vote request.
20 Q Was it discussed at the meeting?
21 A It was not.
22 Q Do you have minutes of that meeting?
23 A Yeah.
24 Q Okay. Can you review those minutes and if there
25 is any record of this issue being discussed, can
26 you please produce those?
27 CNSL R. HIRA: Well, just a moment. This is not an
28 examination for discovery. We have thousands of
29 documents. If you want to direct my client to
30 those minutes, he'd be happy to review them.
31 CNSL D. DALKE: Well, I haven't seen them, 'cause I
32 don't know which minutes it is talking about. I
33 don't -- I didn't know that this was discussed
34 [indiscernible].
35 CNSL R. HIRA: So are you saying you don't know
36 whether they're in the documents?
37 CNSL D. DALKE: I haven't seen minutes of a meeting
38 where this is discussed.
39 CNSL R. HIRA: Well, from what I can tell, there seems
40 to be -- seem to be some minutes in the
41 production regarding October 29, 2020. Have you
42 looked at that document?
43 CNSL D. DALKE: It's an email exchange, as I
44 understand it. [Indiscernible].
45 CNSL R. HIRA: We can't see the document. If you want
46 to give us the document number, I'll pull up the
47 paper copy.

1 A No discussions.

2 Q Thank you. So returning to your Situation
3 Analysis --

4 CNSL R. BASHAM: Mr. Dalke, could you please make the
5 document a little bit bigger?

6 CNSL D. DALKE: Oh, certainly.

7 CNSL R. BASHAM: Thank you.

8 CNSL D. DALKE:

9 Q Returning to your Situation Analysis, you
10 believed at the time of preparing this that the
11 cabbage was grown by Harjeet Bajwa, correct?

12 A Correct.

13 Q And you refer at the last bullet in the first
14 section, just above the heading "Recommendation:"

15

16 On October 19, BCfresh informed that the
17 crop will be ready for shipment the week of
18 October 26th.

19

20 Is that referring to a discussion you had with
21 Mr. Driediger or someone else at BCfresh?

22 A Well, we have weekly market calls, and that would
23 have been brought up at that time.

24 Q Okay. And prior to preparing this Situation
25 Analysis, you had no discussions with Nupinder
26 Bajwa about the matters in this, correct?

27 A Correct.

28 Q You were aware that Harjeet Bajwa was an owner of
29 Bajwa Farms when you prepared the Situation
30 Analysis?

31 A Correct, yes.

32 Q And you were aware that Nupinder Bajwa was an
33 owner of Bajwa Farms, and in fact had control of
34 Bajwa Farms, when you prepared the Situation
35 Analysis, correct?

36 A Well, I don't -- I guess from what was told by
37 Murray, that -- what it said there, that she had
38 control.

39 Q In -- yeah --

40 A That's the way I would --

41 Q So you took --

42 A That's --

43 Q You took what Mr. Driediger said in his September
44 18th email to confirm that Nupinder Bajwa had
45 control of Bajwa Farms at that time, correct?

46 A Correct.

47 Q And you made the recommendation that -- to the

1 Commission that Mr. Bajwa's crop would be managed
2 as being planted without delivery allocation,
3 correct?

4 A That's correct.

5 Q And that was the way to avoid the need to get
6 consent or deal with Nupinder Bajwa in respect of
7 his application, correct?

8 A There was no need to ask for consent because we
9 did not -- the recommendation was that he could
10 use that delivery allocation by Bajwa Farms
11 Limited.

12 Q Well, if he would -- if you were to put to the
13 Commission the recommendation that he be allowed
14 to use the Bajwa Farms delivery allocation, which
15 was what he was asking to do, that would have to
16 do -- you would have had to get Nupinder Bajwa's
17 consent for that, correct?

18 A Absolutely.

19 Q Yeah. So this was a way to deal with Harjeet
20 Bajwa's crop without having to get Nupinder
21 Bajwa's consent, correct?

22 CNSL R. HIRA: Well, that's a matter for argument.
23 It's not a matter of evidence or facts elicited.
24 It's not a proper question, is the objection.

25 CNSL D. DALKE:

26 Q Now, you -- Mr. Driediger put to you in his
27 September 18th email that there wouldn't be any
28 agreement to transfer the delivery allocation to
29 Harjeet Bajwa absent a broader settlement with
30 the courts, as it forms part of the assets. That
31 was the information that you had when you
32 prepared the Situation Analysis, correct?

33 A But this is all irrelevant information, but that
34 was the information that was put forward by
35 Murray Driediger, correct.

36 Q And what Mr. Driediger said that Harjeet Bajwa
37 was looking for was the ability to use the
38 delivery allocation for Bajwa Farms, correct?

39 A Mr. Bajwa wanted to use the delivery allocation
40 from Bajwa Farms Limited is correct.

41 Q Right. And you knew that that delivery
42 allocation was part of the dispute between Mr.
43 Bajwa and Nupinder Bajwa, correct?

44 A I don't see this in the Situation Analysis.

45 Q In the second paragraph of the decision --
46 Situation Analysis, you wrote there:
47

1 In a marital dispute that is currently
2 before the courts, the delivery allocation
3 earned by Bajwa Farms Ltd. is part of a
4 broader settlement before the courts. A
5 discussion on the matter was expected in
6 September, but has not yet been issued.
7

8 That was part of the information you were
9 providing to the commissioners in your Situation
10 Analysis, correct?

11 A That's provided -- yeah. So it's correct that
12 that's something that -- that's the fact that
13 Murray put forward, but at the same time,
14 delivery allocation from [indiscernible]
15 perspective, has no -- no value. It is -- it's
16 something that is part of [indiscernible]
17 marketing and belongs to the Commission.

18 Q But you refer to it here as being earned by Baja
19 Farms, don't you?

20 A Delivery allocation is either earned or granted,
21 and earned means it's based on its total
22 shipments. So correct, the delivery allocation
23 is earned by Bajwa Farms.

24 Q And you were -- you thought it was relevant at
25 the time, at least, to let the commissioners know
26 that the delivery allocation was part of the
27 marital dispute, and that -- and then what you
28 proposed as a way to deal with that, without
29 having to get into that dispute, was for Harjeet
30 Bajwa to manage -- for the Commission to manage
31 Harjeet Bajwa's crop as being planted without
32 delivery allocation, correct?

33 A I forwarded the information that I received and
34 just forward it to the Commission so that they
35 can make their decision and determine what the
36 relative -- relevant facts are themselves. And
37 -- and that's what I do.

38 Q And -- well, you actually made a recommendation,
39 right? That's what's under the heading --

40 A Correct.

41 Q -- "Recommendation"?

42 A Correct.

43 Q Right. And your recommendation was to manage
44 Harjeet Bajwa's crop as being planted without a
45 delivery allocation, to avoid the issue of
46 whether or not he could use the delivery
47 allocation that was earned by Bajwa Farms,

1 because that was part of the marital dispute and
2 that would have required Nupinder Bajwa's
3 consent?

4 A The -- the recommendation was that he could not
5 use Bajwa Farms' delivery allocation, because he
6 was not producing for Bajwa Farms. Simple as
7 that.

8 Q In the next page, I think I'm still sharing my
9 screen, page 4505, there's the Commission
10 Administrative Policy. Do you see that?

11 CNSL R. HIRA: A paper copy of that is before the
12 witness.

13 CNSL D. DALKE: Thank you.

14 Q And this was you're referring to in your
15 recommendation, that Mr. Bajwa's crop would be
16 managed under this policy, correct?

17 A That is correct.

18 Q And so the first step in this policy is -- and
19 the policy is (a):

20

21 A producer has planted a regular storage
22 crop without delivery allocation.

23

24 And so the first step is the producer
25 qualification, correct?

26 A Correct.

27 Q And the first requirement, 1.1:

28

29 The producer is represented by a storage
30 crop agency.

31

32 That's the first requirement, correct?

33 A Correct.

34 Q And so did you take it or conclude that BCfresh
35 was representing Harjeet Bajwa?

36 A Correct.

37 Q Okay. And so then under 1.2:

38

39 The designated agency determines if the
40 producer is qualified for market access.

41

42 So you relied on BCfresh to determine that
43 Harjeet Bajwa was qualified for market access,
44 correct?

45 A Correct.

46 Q Okay. And those qualifications include, 1:

47

1 The producer is licenced by the Commission
2 to produce the regulated crop.

3
4 Correct?

5 A Yes.

6 Q And that was not true of Mr. Bajwa, was it?

7 A Well, he wasn't licenced yet --

8 Q Right.

9 A -- so he wasn't licenced.

10 Q So he didn't qualify under this policy at the
11 time that you put this to the Commission,
12 correct?

13 A Correct.

14 Q Okay. And then the second requirement:

15
16 The producer has signed a GMA with the
17 agency.

18
19 Mr. Bajwa did not have a GMA with BCfresh at the
20 time, correct?

21 A Correct.

22 Q And the third bullet:

23
24 The producer has a valid Food safety
25 certificate and must add the crop in
26 question at the next available opportunity.

27
28 Mr. Bajwa did not have a valid Food safety
29 certificate at the time that you put this to the
30 Commission, correct?

31 A Correct.

32 Q Okay. So in fact, Mr. Bajwa didn't meet any of
33 the requirements for this policy at the time that
34 you were making the recommendation to the
35 Commission that his cabbage be managed under this
36 policy, correct?

37 A Correct.

38 Q And you were willing to bend the -- you were
39 willing to licence him, despite the general order
40 which requires the licence to be obtained before
41 the crop is produced, as we saw earlier, correct?

42 A It appears, as a pure read of the general order,
43 that that is correct.

44 CNSL D. DALKE: Perhaps -- I'm happy to continue or
45 stop at this point. I'm going to move to a
46 different document. I don't --

47 THE CHAIRPERSON: I think this would be a good time to

**BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD
SUPERVISORY REVIEW HEARING BRIEF**

Video Conference
February 10, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING

COPY

1
Marcel Andre Solymosi
Cross-exam by Cnsl D. Dalke

Video Conference
February 10, 2022

(POOR QUALITY VIDEO CONFERENCE AUDIO)

JOANNE HAMILTON: Yes, we're on the record.

THE CHAIRPERSON: Thank you, Joanne. So before -- we have echo here. Okay. So before we ask Mr. Dalke to continue, Mr. Mitha, is there anything arising?

CNSL N. MITHA: No, there isn't. Thank you, Chair Donkers. We can continue.

THE CHAIRPERSON: Okay. Mr. Dalke?

CNSL D. DALKE: Thank you, Chair Donkers.

MARCEL ANDRE SOLYMOSSI, a
witness, recalled.

CROSS-EXAMINATION BY CNSL D. DALKE, continuing:

Q Good morning, Mr. Solymosi.

A Good morning.

Q With respect to the cabbage that's an issue and the questions I've been asking you about and the complaint by Bajwa Farms, up to and including November 2nd, 2002, you were under the view that that cabbage had been grown by Harjeet Bajwa, correct?

A Correct.

Q Okay. And that's reflected in all the documents up to that date including the September 18th email from Mr. Driediger, your October 28th situation analysis and the email and letter that were sent to Mr. Harjeet Bajwa on November 2nd, correct?

A Correct.

Q And then on November 2nd, the Commission realized that the communications that were intended for Harjeet Bajwa were sent to the Bajwa Farms email address by mistake, correct?

A Correct.

Q And then the very next day the plan changed and in fact, the cabbage was going to be marketed as Van Eekelen's cabbage, correct?

A I can't recall if it's the next day. Is there a document on that?

Q Yeah, I'll get to that, but you do recall change,

1 correct?

2 A Correct.

3 Q And you had a central role in making that change,
4 correct?

5 A I had no role in making that change.

6 Q Okay. Let's -- I'd like to pull up the document.
7 It's one of the documents that was disclosed
8 recently I think attached to Mr. Mitha's email.
9 It was called Market Access Administrative
10 Decisions.

11 A [indiscernible - background noise]

12 Q I'll share it on my screen, but I got a note from
13 Mr. Chair that says, "Host disabled participant
14 screensharing." Is there a way for --

15 THE CHAIRPERSON: Yeah, just give us a second.

16 CNSL D. DALKE: Thank you.

17 THE CHAIRPERSON: And we'll ask the FIRB staff who are
18 hosting to enable that.

19 ERICA CHAMPION: Yes, I'll get that going. Just one
20 moment. Sorry, just one moment.

21 CNSL R. HIRA: Mr. Dalke, if you're referring to the
22 November 3, 2020 Administrative Decision, I have
23 that. It's here in front of me but not yet in
24 front of the witness.

25 CNSL D. DALKE: Thank you. If you can provide it to
26 the witness that would be great. I would like to
27 put it on the shared screen, but I can perhaps
28 start my questions.

29 ERICA CHAMPION: It should be enabled now.

30 CNSL D. DALKE: Oh, good. Thanks.

31 ERICA CHAMPION: My apologies.

32 CNSL D. DALKE: No worries.

33 CNSL R. HIRA: Okay. The document that I have has a
34 pen marking on it by the first two bullets and of
35 course some underlining.

36 CNSL D. DALKE: Oh, okay.

37 CNSL R. HIRA: Put that document to the witness?

38 CNSL D. DALKE: Whose -- whose notes and underlining
39 is that, Mr. Hira.

40 CNSL R. HIRA: The notes and underlining are Ms.
41 Hall's but the notes -- there isn't a note,
42 there's just -- it's just a -- how should I put
43 this, it's where you're bound to go if you're
44 reasonable counsel.

45 CNSL D. DALKE: Okay. Well, we'll see how it goes. I
46 -- I'll -- let's go with what I've got on the
47 screen perhaps.

1 Q And this is referring to the exact same cabbage
2 that was the subject of Mr. Driediger's September
3 18th email and the cabbage we've been discussing
4 so far, correct?

5 A Correct.

6 Q So this time, it's recorded in the minutes as
7 crop produced by Van Eekelen Enterprises. Was
8 that how Mr. Driediger referred to it in the
9 meeting?

10 A Correct.

11 Q Okay. And then the last bullet under this first
12 heading Market Access Request, it says:

13
14 This cabbage replaces product that has been
15 supplied by Bajwa Farms Ltd. in prior years.

16
17 Do you see that bullet?

18 A Correct.

19 Q Was that something that Mr. Driediger said as
20 well?

21 A Correct.

22 Q Okay. And so is everything under Market Access
23 Request recording by you and what Mr. Driediger
24 said or did you relay any of that?

25 A Well, my -- you know, market access can only be
26 granted under Part A, [indiscernible] Commission.

27 Q That's the third bullet.

28 A

29 Crop has been planted without delivery
30 allocation.

31

32 Q Yeah.

33 A Is there anything on the bottom there? I can't
34 see the rest of the page.

35 Q I'm sorry. I'll -- I'll move it up and enlarge
36 it a little bit.

37 A Okay. That's bigger. Yeah, those would be the
38 two points under Market Access Request.

39 Q Okay. So -- sorry, the first bullet and the last
40 bullet were things that were relayed by Mr.
41 Driediger, is that correct?

42 A Correct.

43 Q And the second bullet and third and fourth
44 bullet, were those also relayed by Mr. Driediger
45 or were those indicated -- were those things that
46 you said in the meeting?

47 A Well, crop can only planted without -- the crop

1 had been planted without delivery allocation.
2 There was no delivery allocation associated with
3 that crop. Then market access can only be
4 granted under Part A so those would be things
5 that were discussed and which I would have
6 contributed to this discussion.

7 Q Okay. Did you express any surprise in the
8 meeting that this market access request was now
9 coming from Van Eekelen?

10 A No, it was explained.

11 Q Who explained it?

12 A Mr. Driediger.

13 Q And what did he say?

14 A Well, the request for market access on this
15 cabbage crop was by Harjeet Bajwa.

16 Q Right.

17 A So the minutes -- the minutes are -- you know,
18 these are the minutes of the meeting. They are
19 accurate.

20 Q Okay. Did you have any discussions between
21 November 2nd and November 3rd with Mr. Driediger
22 or Mr. Bajwa about this request?

23 A No.

24 Q Okay. But you understood on November 2nd that
25 the crop was produced by Harjeet Bajwa, correct?

26 A Correct.

27 Q And now the crop is described by Mr. Driediger as
28 having been produced by Van Eekelen Enterprises,
29 correct?

30 A Correct.

31 Q Did you ask him for any explanation as to why
32 that change occurred?

33 A No.

34 Q Were you surprised by the change?

35 A It's -- my concern is all around market access of
36 a crop that's grown and we have a policy in place
37 [indiscernible] and we follow this policy.

38 Q Right. But market access is given to a producer,
39 correct?

40 A Correct and Van Eekelen was registered, licenced
41 as a producer.

42 Q But not licenced to grow cabbage, correct?

43 A It was added this year to be licenced to grow
44 cabbage.

45 Q But on November 3rd it was not licenced to grow
46 cabbage, was it?

47 A They were licenced -- I can't remember what the

1 exact date was [indiscernible - overlapping
2 speakers].
3 Q I think we'll get to that because there's some
4 documents that indicate that. You don't know
5 then?
6 A I can't recall right now at this time unless you
7 put the document in front of me.
8 Q Okay. We'll get there. But I just want to
9 understand, Mr. Solymosi, on November 2nd, you
10 believed that the cabbage was produced by Harjeet
11 Bajwa and now Mr. Driediger is telling you it's
12 produced by Van Eekelen and that raised no
13 concerns from you that the identity of the
14 producer of this cabbage suddenly switched from
15 November 2nd to November 3rd, is that your
16 evidence?
17 A Well, Harjeet Bajwa was never licenced as a
18 producer so the licencing -- as long as a
19 producer's licenced first then we would apply the
20 policy to that licenced producer.
21 Q You -- you went -- you made a recommendation to
22 the Commission that was contained in your October
23 28th Situation Analysis that indicated that
24 Harjeet Bajwa had produced this crop. It
25 recommended that he be given market access as
26 someone who produced it without delivery
27 allocation. That was a recommendation you made
28 to the Commission that you identified Mr. Bajwa
29 as the producer of that cabbage, correct?
30 A Correct.
31 Q And you were willing to make that a
32 recommendation despite the fact that Mr. Bajwa
33 wasn't licenced to produce cabbage or anything
34 else at that time, correct?
35 A That -- correct, but the process is that you
36 follow the process, you have to be licenced
37 before you can get market access so the process
38 would be followed.
39 Q Well, we saw in the general orders yesterday you
40 also have to be licenced before you produce a
41 crop, correct?
42 A On a -- on a pure read, correct.
43 Q Okay. And -- and then on November 3rd, Mr.
44 Driediger tells you that it's now Van Eekelen who
45 produced the cabbage and that raised no concern
46 for you. You were willing to grant market access
47 for this cabbage and switched the identity of the

1 producer from November 2nd to November 3rd simply
2 because Mr. Driediger said so, correct?
3 CNSL R. HIRA: Wait a minute. That's a very good
4 argument that you could make in closing. It's
5 not a question. Please break it down.
6 CNSL D. DALKE:
7 Q Well, I think I've asked Mr. Solymosi every
8 element to that question so far but I'm happy to
9 break it down again if -- if you like. So, Mr.
10 Solymosi, up until November 2nd, you understood
11 Harjeet Bajwa was the producer of this cabbage,
12 correct?
13 A Correct.
14 Q And it's important for a producer to have a
15 licence to get market access to the cabbage,
16 correct?
17 A For an agency to get market access to the
18 cabbage, correct.
19 Q But the producer is the person that's licenced to
20 grow the cabbage and sell it through the agency,
21 correct?
22 A Producer is licenced to have their products
23 shipped to the market to an agency so you have to
24 be licenced to participate in the orderly
25 marketing system of regulated produce.
26 Q Right. And you were willing -- you make a
27 recommendation that Harjeet Bajwa be granted
28 market access for this cabbage, correct?
29 A Correct, with -- under this policy, correct.
30 Q Correct, and then on November 3rd, you accepted
31 without question Mr. Driediger's statement that
32 the cabbage was in fact produced by Van Eekelen,
33 correct?
34 A Correct.
35 Q And you accepted Mr. Driediger's plan to have Van
36 Eekelen be the one who gets market access for
37 this cabbage in place of Harjeet Bajwa, correct?
38 A I -- from that discussion it was reasoned that
39 Van Eekelen was the producer -- actual producer
40 of the cabbage not Harjeet Bajwa.
41 Q Okay. And were you taken by surprise by that,
42 Mr. Solymosi?
43 A No.
44 Q Was that because you knew all along that Van
45 Eekelen had produced the cabbage?
46 A No.
47 Q Okay. So November 3rd at this meeting is the

1 first time you discover that Van Eekelen produced
2 the cabbage rather than Harjeet Bajwa, correct?
3 A Correct, on that market call.
4 Q Okay. But you had received an email from Mr.
5 Driediger on September 18th indicating that
6 Harjeet Bajwa had produced the cabbage, correct?
7 A Correct.
8 Q There was no mention in Mr. Driediger's September
9 18th email of Van Eekelen, correct?
10 A Correct.
11 Q And you went to the Commissioners who had to make
12 a decision about the livelihood of farmers and
13 access to the market and you told the
14 Commissioners that the cabbage was produced by
15 Harjeet Bajwa, correct?
16 A What was brought forward to the Commission was
17 the request to use delivery allocation of Bajwa
18 Farms so that was a decision made by the
19 Commission was that Harjeet Bajwa could not use
20 the delivery allocation of Bajwa Farms.
21 Q And included in that and in particular the
22 recommendation that you made to the Commission
23 was that Harjeet Bajwa be granted access as
24 someone who grew cabbage without a delivery
25 allocation, correct?
26 A Correct.
27 Q And you made no mention in any of your
28 communications to the Commissioners that the
29 cabbage was in fact grown by Van Eekelen,
30 correct?
31 A At that time I didn't know so that is correct.
32 Q Right. So weren't you surprised that Mr.
33 Driediger is now saying that this is the Van
34 Eekelen's cabbage after you relied on information
35 he gave you saying that it was Harjeet Bajwa's
36 cabbage?
37 A It was explained in the call that Harjeet Bajwa
38 was an employee of Van Eekelen and he was -- he
39 was the one that contacted and made the request.
40 Q That was an explanation that Mr. Driediger gave
41 you in this November 3rd call?
42 A Correct.
43 Q Was there anything else he explained in a
44 November 3rd call as to the reason for switching
45 the identity of the producer from Harjeet Bajwa
46 to Van Eekelen?
47 A No.

1 Q You can't recall anything else that he explained
2 in that meeting?
3 A No, I can't recall anything else.
4 Q And you were willing to simply go along with that
5 change even though you had made the
6 recommendation to the Commission based on
7 information you had that the cabbage was grown by
8 Harjeet Bajwa, correct?
9 A Can you -- can you repeat that, please?
10 Q You were willing to go along with Mr. Driediger's
11 request that the identity of the producer be
12 changed from Harjeet Bajwa to Van Eekelen,
13 correct?
14 A Correct.
15 Q And I -- I want to just go through this meeting
16 by meeting so I'll just put it up. I hope you
17 can still see it, but it will be easier to go
18 through it if I show the whole page at once.
19 So --
20 CNSL R. HIRA: I have a paper copy. It is very
21 difficult for my client to see it.
22 CNSL D. DALKE: Okay. Why don't you give him the
23 paper copy then, Mr. Hira.
24 CNSL R. HIRA: As I say, it does have a pen marking
25 and some yellowing which really shouldn't be an
26 issue.
27 CNSL D. DALKE: That's fine. Thank you.
28 Q So this is a -- each meeting appears -- there's
29 about two pages of -- of notes and so this is --
30 we're now at the following week, November 10th.
31 CNSL R. HIRA: Right. I gave him the November 3rd
32 document. I will now give him the November 10
33 document which only has some yellowing.
34 CNSL D. DALKE: Thank you.
35 Q And again, under the Market Access without
36 Delivery Allocation that is --
37 CNSL R. HIRA: [indiscernible] has the document and
38 Chairman Donkers has to read it. You may want to
39 make the screen larger for the Chairman.
40 CNSL D. DALKE: Thank you.
41 Q So on November 10th, Mr. Solymosi, at that
42 meeting the only producer who was seeking access
43 without a delivery allocation was the Van Eekelen
44 cabbage, correct?
45 A That's correct.
46 Q And then on November 17th, again, Van Eekelen is
47 the only one who is seeking access without

- 1 A Well, I already told you that and it's in the
2 minutes of the administrative decision that was
3 issued at the market call earlier that week.
- 4 Q Well, I'm sorry, my question was if Mr. Driediger
5 gave you any explanation in the telephone call
6 you had with him -- was that on November 5 that
7 you spoke to him?
- 8 A Correct.
- 9 Q Did he give you any explanation in that telephone
10 call as to why Van Eekelen was applying for a
11 licence now rather than Mr. Bajwa?
- 12 A No.
- 13 Q Did you ask him for any explanation in that call?
- 14 A No.
- 15 Q Did you make any notes of that telephone call?
- 16 A No.
- 17 Q You do make notes regularly, correct?
- 18 A Yes [indiscernible - overlapping speakers]
- 19 Q [indiscernible]
- 20 A You know, this is not a meeting. This was a
21 short telephone call with the attached
22 application and acknowledging that we received
23 the application. There's nothing more to it than
24 that because in this -- referring to this
25 communication with Murray and the follow-up call,
26 there's nothing more. If there was any meeting
27 or substantive call that I would have with --
28 with anyone then I would take notes.
- 29 Q Okay. If you had a substantive call with
30 someone, you would take notes?
- 31 A Correct.
- 32 Q Okay. And particularly if you were getting
33 information from that person that you would be
34 putting to the Commissioners as the basis for
35 their decision, you would make notes of those
36 calls, correct?
- 37 A I would, correct.
- 38 Q Okay. And so you recall this as a short call and
39 you didn't take any notes?
- 40 A Correct.
- 41 Q And I recall you saying yesterday that -- that
42 the licence applications would normally be sent
43 in by the producer directly to Ms. Babcock,
44 correct?
- 45 A That -- typically that happens, correct.
- 46 Q And Van Eekelen is certainly a sufficiently
47 sophisticated producer that they would know how

1 to apply for a licence on their own, correct?
2 CNSL R. HIRA: Well, you're asking him to comment on
3 -- you're asking him to comment on the state of
4 mind of Van Eekelen. That's not a proper
5 question. I think you should re-word.
6 CNSL D. DALKE:
7 Q Do you understand Van Eekelen to be a fairly
8 sophisticated farm operator?
9 A I do.
10 Q And they would certainly know how to apply for a
11 licence on their own without Mr. Driediger's
12 assistance, correct?
13 CNSL R. HIRA: Again, you're doing the same thing. I
14 think that's something that you have to put to
15 Van Eekelen or make or order Mr. Driediger or
16 make an argument about it.
17 CNSL D. DALKE:
18 Q All right. Well, Mr. Solymosi, you -- you've
19 already confirmed that producers would normally
20 apply on their own to Ms. Babcock for a licence
21 so it was unusual to have Mr. Driediger sending
22 in a licence application to you, correct?
23 A Well, when Ms. Babcock -- if anything goes
24 missing, Ms. Babcock is [indiscernible -
25 background noise] any communication she would
26 have with the producer if that is an inquiry or
27 as a response to a letter requesting the renewal
28 of an application or licencing application
29 because licencing applications are renewed
30 annually. So I would expect that if it's renewed
31 annually that if they get a letter, that they
32 would reply with their application.
33 Q They would normally apply directly to Ms.
34 Babcock, correct?
35 A If -- well, it's -- they -- if they know that's
36 the process, yes, correct.
37 Q Okay. It would be unusual for Mr. Driediger to
38 send in a licence application for a producer to
39 you on behalf of that producer, correct?
40 A It's unusual. That's correct.
41 Q Okay. And this one in particular, Mr. Driediger
42 was sending it to you because this was unusual
43 and in fact it was an extraordinary circumstance,
44 correct?
45 A This was an unusual circumstance, correct.
46 Q And you understood -- I think you said yesterday,
47 you understood that Van Eekelen was licenced for

1 processing crops, correct?

2 A That is correct.

3 Q They were not licenced for storage crops.

4 Cabbage is a storage crop, correct?

5 A Correct.

6 Q I'm going to put up another document from the
7 Common Book of Documents. It's 4572. Can you
8 see this, Mr. Solymosi?

9 A Yes.

10 Q I'm going to stroll down and start from the
11 beginning of this chain. It looks like it starts
12 right here. Ms. Babcock writes to Mr. Van
13 Eekelen:

14
15 Just received the application for producer
16 licencing for Van Eekelen specifically with
17 regard to cabbage. You don't happen to have
18 your CanadaGAP Food Safety to send over?
19 The licence I'm issuing will supersede your
20 prior licence of May 2020 and will have the
21 same expiration date of May 14th.
22

23 Did you have discussions with Ms. Babcock about
24 issuing a licence for Van Eekelen for cabbage?

25 A Well, the application came through on that email
26 from Mr. Driediger.

27 Q Okay. So did you then forward it to Ms. Babcock
28 or did she receive it independently of you
29 from --

30 A I believe I would have forwarded it -- that to
31 Ms. Babcock.

32 Q You gave it [indiscernible - overlapping
33 speakers] --

34 A [indiscernible]

35 Q Pardon me?

36 A Forwarded it or printed it off.

37 Q Okay. You had -- and given it to her?

38 A Yeah.

39 Q And you had given her instructions to approve it,
40 correct?

41 A Correct.

42 Q And --

43 A Or I would say go through the process.

44 Q Okay.

45 A That's more accurate or descriptive.

46 Q And then she writes on November 9:
47

[indiscernible] given the extraordinary circumstances with regards to the cabbage. I'm assuming there was no opportunity to have an audit done to include the cabbage for this year. Can I assume that there will be an effort to piggyback cabbage onto the certification next summer/fall?

She's referring to the CanadaGAP Food Safety Certificate, correct?

A Correct.

Q Okay. And do you know if Van Eekelen ever obtained a Food Safety Certificate for cabbage in the following year?

A I'm not aware.

Q Did you follow up with them to make sure they have one?

A Well, it's -- it would have brought -- been brought to my attention if it -- if it wasn't issued.

Q Okay. I've suggested to you, sir, that Van Eekelen never got a Food Safety Certificate for cabbage, do you agree with that?

A For 2020.

Q Or the following year?

A I -- at this point I don't have -- I don't -- I'm not -- I don't know. At this point I don't know about whether or not he has it or not. [indiscernible] something I've looked at.

Q You were attending when Ms. Nupinder Bajwa was giving evidence last week on Monday?

A Correct.

Q And you recall her giving evidence about obtaining these CanadaGAP certificate documents from the internet?

A I do now.

Q And you see that this one as of January 1, 2021, for Van Eekelen, there's no mention of cabbage, correct?

A Correct.

Q And she also gave evidence about this one that she obtained as of January 2022.

THE CHAIRPERSON: Mr. Dalke, can you just confirm where you are in --

CNSL D. DALKE: I'm sorry. These were the additional documents that were disclosed by Bajwa Farms circulated upon January 30th via email from --

1 from me.

2 THE CHAIRPERSON: Is it 4?

3 CNSL D. DALKE: Pardon me?

4 THE CHAIRPERSON: Am I correct, this is Exhibit 4?

5 CNSL D. DALKE: I'm not sure that this was marked as
6 an exhibit, Mr. Chair.

7 CNSL C. HUNTER: I did. Mr. Chair, it's Claire
8 Hunter. It was Exhibit 4.

9 THE CHAIRPERSON: Oh, thank you. Thank you.

10 CNSL D. DALKE: Thank you, Ms. Hunter.

11 Q So Van Eekelen, third from the bottom, Mr.
12 Solymosi, no mention of cabbage in the crops for
13 which it has certification, correct?

14 A For the January 1st, 2022, that's correct.

15 Q So it looks like from those documents at least
16 Van Eekelen never got a food safety certificate
17 for cabbage in the following year, correct?

18 A Correct, as of January 1st, 2022.

19 Q I'm going to move to document 4587. This is a
20 letter from the BC Vegetable Marketing Commission
21 dated November 9 of 2020 for -- to Mr. Van
22 Eekelen from Suzanne Babcock. Do you see that?

23 A Correct.

24 Q And it encloses the licence that was issued to
25 Van Eekelen Enterprises, correct?

26 A Yes.

27 Q And it indicates a producer of bush beans and
28 green peas for processing marketed through BC
29 Frozen Foods, do you see that?

30 A Correct.

31 Q That BC Frozen Foods, is that the agency that
32 those crops would be marketed through?

33 A That's a processor.

34 Q Okay. Do you know -- is there an agency that
35 those are marketed through or they are just
36 marketed through the processor?

37 A Processing crops are contracted crops with --
38 directly contracted with a processor.

39 Q Okay. Do you know if -- and then, sorry, after
40 this is producer of red cabbage and green cabbage
41 marketed through BCfresh Vegetables Inc. That's
42 what was added to the Van Eekelen's producer
43 licence as part of this application that went to
44 you by Murray Driediger, correct?

45 A That's correct.

46 Q Okay. And you know whether the Van Eekelen's
47 marketed any regulated crops through BCfresh

1 Q I won't read through the entire letter. I'm sure
2 you've read it, but you recall that it asserted
3 that Harjeet Bajwa was breached of fiduciary
4 duties by growing a crop of cabbage with the Van
5 Eekelens, do you call that?
6 A Yes.
7 Q Okay. And you responded to this letter on
8 November 9th and -- I'll put that up as well.
9 It's document 4586. This is your November 9th
10 response, correct?
11 A Can I have a moment?
12 Q Do you see that, Mr. Solymosi?
13 A Yeah, I don't see everything.
14 CNSL R. HIRA: Can I put the document in front of him?
15 CNSL D. DALKE: Sure.
16 Q And when you wrote this letter you simply
17 dismissed the concerns about a breach of
18 fiduciary duty saying it seems likely that this
19 position will be contested by other persons, do
20 you see that?
21 CNSL R. HIRA: Well, just a moment. The first part of
22 the question is an assumption and argument. The
23 letter speaks for itself. If you want to ask
24 questions regarding what is said in the letter,
25 you may do so but not make argument.
26 CNSL D. DALKE:
27 Q Did you -- did you speak to Harjeet Bajwa or
28 Murray Driediger prior to writing this letter?
29 A No.
30 Q So you simply dismissed the concerns that were
31 raised as it says here on the basis it seems
32 likely that this position will be contested by
33 other persons?
34 A Basically, the Commission cannot intervene on
35 behalf of one party to a private dispute.
36 Q You didn't make any investigation into whether or
37 not the concerns raised in the November 6th
38 letter by Bajwa Farms about a breach of fiduciary
39 duty were valid or not?
40 A No, no investigation.
41 Q Okay. And when -- when you received Mr.
42 Driediger's email of September 18th saying that
43 Mr. Bajwa claimed an entitlement to use Bajwa
44 Farms DA and the DA was part of a messy marital
45 dispute, you made no inquiries of Nupinder Bajwa
46 to get her side of that story, correct?
47 A Correct.

1
2 That was what you said to Mr. Mitha?
3 A That's correct, yes.
4 Q Okay. Mr. Driediger, we saw his September 18th
5 email to you -- September 18, 2020, which
6 specifically mentioned Bob Dhillon's involvement
7 in the marital dispute between Nupinder Bajwa and
8 Harjeet Bajwa. Do you recall that?
9 A Correct.
10 Q And he identified Nupinder Bajwa as the sister of
11 Bob Dhillon, correct?
12 A Correct.
13 Q And so Mr. Driediger included that -- in that
14 email so that you would be aware of that fact as
15 you were considering Mr. Bajwa's application to
16 use the delivery allocation for Bajwa Farms,
17 correct?
18 CNSL R. HIRA: Well, he can't say that Mr. Driediger
19 can say that. All he can say is that it was
20 included in the September 18th email.
21 CNSL D. DALKE:
22 Q And you included that September 18th email in the
23 package of materials that you provided to the
24 Commissioners when they were deciding on the
25 application of Harjeet Bajwa to use the delivery
26 allocation, correct?
27 A The Commission is the decision maker, so I put
28 forward what's presented to me and bring forward
29 it to them to make their decisions.
30 Q Right. And Murray Driediger's September 18th,
31 2020, email was among the documents that you put
32 to the Commissioners, correct?
33 A At the Commission meeting, correct, on October
34 29th.
35 Q And you certainly knew who Bob Dhillon was at
36 that point, correct?
37 A Correct.
38 Q And you were aware that he was the principal of
39 Prokam and that Prokam had been involved in
40 litigation with the Commission for about two
41 years by that time, correct?
42 A What year is this? This is 2020?
43 Q 2020, yeah.
44 A That is correct.
45 Q Right. And in fact, you had previously referred
46 to Prokam as a rogue producer in an email you
47 sent on September 27, 2017 to Brian Meyer,

1 correct?
2 A That's correct.
3 Q What did Mr. Driediger say to you about Bob
4 Dhillon's role in the telephone conversation you
5 had on September 18th, 2020?
6 A He didn't say -- basically, he was saying that he
7 had this cabbage and I told him put it in
8 writing, send me an email --
9 Q Right.
10 A -- that was the conversation.
11 Q In -- in the telephone call you had with him, he
12 mentioned that Nupinder Bajwa was Bob Dhillon's
13 sister, correct?
14 A I don't -- to the best of my recollection, what
15 he would have said would have been in the email
16 that was provided to me.
17 Q Okay. And you didn't tell him to leave that out
18 of the email, you didn't tell him that's
19 irrelevant, don't put that in the email?
20 A I just asked him to send an email. He could put
21 whatever he wants in the email. It's up to him.
22 Q You wanted him to relay in the email what he had
23 relayed to you in your conversation, correct?
24 A I told him to put the request in -- in the form
25 -- whatever form he wants to put it in, put that
26 request in an email and send it to me.
27 Q With all the supporting facts for that request,
28 correct?
29 A It's Murray's decision on what he wants to put in
30 that email. I can't tell him what to put in or
31 what to leave out.
32 Q But you just said that he had a telephone call
33 with you and that he basically relayed everything
34 in the telephone call to you that was in the
35 email, correct?
36 A Correct.
37 Q And one of the things he relayed to you in the
38 telephone call was the relationship between Bob
39 Dhillon and Nupinder Bajwa, correct?
40 A Correct.
41 Q And you asked him to put what he relayed to you
42 in that telephone call into his email, correct?
43 A No, I said send an email of your request because
44 a written request was concerning Mr. Harjeet
45 Bajwa using the delivery allocation of Bajwa
46 Farms. That was the request so Murray put in
47 what he wanted in that email and that email was

1 brought forward to the Commission.

2 Q And you didn't tell him don't put anything in
3 about the relationship between Bob Dhillon and
4 Nupinder Bajwa, that's irrelevant. You didn't
5 say that to him, did you?

6 A I didn't say anything.

7 Q I'm going to go to the next page, question 25.
8 The first paragraph there after the mention of
9 conversations with Harjeet Bajwa, it says:

10
11 In October, I placed the matter before the
12 Commission. The Commission refused his
13 application on November 2nd, 2020. I
14 proposed another method of proceeding
15 including applying for producer licence
16 registration as a multi-registration farm
17 with Bajwa Farms for tracking purposes.
18

19 And I think you clarified yesterday that the
20 method that was -- that you're referring to of
21 proceeding, that wasn't a separate recommendation
22 from what was put before the Commission. That
23 was the same thing that the Commission was
24 deciding on, correct?

25 A Can you repeat that, please?

26 Q Yes, on November 2nd -- I think you clarified
27 yesterday, on November 2nd, you weren't proposing
28 another method of proceeding. It was the same
29 thing that you had proposed to the Commission and
30 the Commission decided on.

31 A What was proposed to the Commission was that DA
32 could not be used by Mr. Bajwa so proceeding, we
33 would address the matter through the
34 administrative process of a producer that
35 produced a crop without delivery allocation --

36 Q [indiscernible - overlapping speakers]

37 A -- so that's -- go ahead.

38 Q That was what you had recommended to the
39 Commission as well, correct?

40 A Correct.

41 Q Okay. But there was in fact another method of
42 proceeding that came up after November 2nd and
43 that was the method of having Van Eekelen apply
44 for the producer licence for this cabbage,
45 correct?

46 A No, it's a producer who does not have a delivery
47 allocation. That is what is being addressed.

1 Q Well, what changed was the identity of the
2 producer, correct?

3 A Correct.

4 Q We talked about this process of getting market
5 access involving extraordinary circumstances,
6 correct?

7 A Pardon me? Can you repeat that?

8 Q You agree that getting market access for this
9 cabbage that Harjeet Bajwa grew was
10 extraordinary, correct?

11 A It was a situation where you had a producer who
12 did not have delivery allocation and he had a
13 process in place to manage it so I would agree
14 with that.

15 Q And you'd agree that this one situation for
16 Harjeet Bajwa's cabbage was one that was
17 extraordinary, correct?

18 A What do you mean by extraordinary?

19 Q Unusual, out of the ordinary.

20 A It was -- the first request that came forward to
21 the Commission that I've been aware of a producer
22 that wanted to produce cabbage without delivery
23 allocation.

24 Q Okay. And it was --

25 CNSL R. HIRA: Well, he hasn't finished his answer.

26 CNSL D. DALKE: I'm sorry. Did you have more to say?

27 A We had a policy in place to address situations
28 like this and we applied the policy.

29 Q Okay. Mr. Driediger in his September 18th email
30 to you referred to this as:

31
32 This is without a doubt the most unusual
33 situation I've been involved in.
34

35 Do you recall that?

36 A Yes, correct.

37 Q And Ms. Babcock when she was emailing with Mr.
38 Van Eekelen about the licence and the absence of
39 a Canada Food Safety Certificate referred to the
40 extraordinary circumstances, correct?

41 A I believe so, correct.

42 Q And some of the extraordinary circumstances here
43 were that you had a request from Harjeet Bajwa, a
44 producer you didn't know and had never dealt with
45 before Mr. Driediger's September 18th, 2020
46 email, correct?

47 A Correct.

- 1 Q Another extraordinary circumstance is that he was
2 asking to use delivery allocation for Bajwa Farms
3 Ltd., a company that he didn't control, correct?
4 A Correct.
5 Q And another extraordinary circumstance is that he
6 didn't control Bajwa Farms because Nupinder Bajwa
7 had control under a court order, correct?
8 A It appears so but it's all irrelevant when you're
9 looking at what the Commission decision was.
10 Q And another extraordinary circumstance was that
11 Nupinder Bajwa was the sister of Bob Dhillon,
12 correct?
13 A Correct.
14 Q And another extraordinary circumstance was that
15 Harjeet Bajwa and Nupinder Bajwa were in a messy
16 marital dispute, correct?
17 A Can you repeat that --
18 Q Another extraordinary circumstance was Harjeet
19 Bajwa and Nupinder Bajwa were in a messy marital
20 dispute, correct?
21 A I guess you're all -- I guess you're applying
22 extraordinary circumstances that was used by
23 Suzanne in her email --
24 Q And Mr. Driediger in his email, correct?
25 A And Mr. Driediger's email, that would be correct.
26 Q Okay. And another part of this that was
27 extraordinary was that the cabbage was initially
28 identified to you as having been grown by Harjeet
29 Bajwa but then you were told it was grown by Van
30 Eekelen's, correct?
31 A Correct.
32 Q And another extraordinary circumstance was that
33 neither Harjeet Bajwa nor the Van Eekelens had a
34 licence to grow cabbage, correct?
35 A They acquired a licence once it was verified who
36 grew the cabbage.
37 Q Okay. But at the time that it was brought to
38 you, neither of them had a licence, correct?
39 A Correct.
40 Q You had some uncertainty about the date that the
41 Van Eekelens were granted their licence. That
42 was November 9th, correct? We saw that from the
43 letter that went from the Commission to Van
44 Eekelen's.
45 A Correct.
46 Q And another extraordinary circumstance was that
47 you had allegations from Bajwa Farms legal

1 that producer to have access to market.
2 Q And then that producer was Van Eekelen's in the
3 end, correct?
4 A Correct.
5 Q And the reason that you were willing to put --
6 the reason that you were willing to facilitate
7 market access for this cabbage was that Mr.
8 Driediger told you that Harjeet Bajwa was in a
9 messy marital dispute with Nupinder Bajwa and she
10 was Bob Dhillon's sister, correct?
11 A No.
12 Q Did the Commission ever take enforcement action
13 against Harjeet Bajwa or Van Eekelen Enterprises
14 for growing cabbage without a licence?
15 A They -- no, we did not take enforcement action.
16 Q And --
17 A The producer --
18 Q Sorry -- sorry about that.
19 A The producer became licenced prior to the crop
20 entering the marketplaces.
21 Q I'll just refer you to document 4674. This is a
22 letter of November 25, 2020 to -- maybe you saw
23 this yesterday in questions from Mr. Mitha. Do
24 you recall that?
25 A Hold on here.
26 Q Pardon me?
27 A Wait one second.
28 Q Sure.
29 CNSL R. HIRA: [indiscernible - overlapping speakers]
30 paper copy of the letter --
31 CNSL D. DALKE: Thank you.
32 CNSL R. HIRA: -- before the witness.
33 A Okay.
34 CNSL D. DALKE:
35 Q Do you see on the second page of the letter,
36 second paragraph we write:
37
38 Our client requests that the Commission
39 investigate whether Harjeet Bajwa has grown
40 and sold cabbage without regulatory
41 approvals.
42
43 A Where is this?
44 Q Second page of the letter, second paragraph.
45 A Second page -- okay. Yeah.
46 Q Did the Commission ever investigate whether Mr.
47 Bajwa grew cabbage without regulatory approvals?

- 1 A No.
- 2 Q Okay. We talked about the general orders that
3 require a producer to be licenced before they
4 grow a regulated crop. Do you recall that, Mr.
5 Solymosi?
- 6 A Yeah, on a pure read.
- 7 Q Okay. Were you prepared to overlook that at the
8 time that Mr. Bajwa's application and the Van
9 Eekelen's application came before the Commission?
- 10 A Well, the system is about market access and so I
11 guess if you look at the pure read of that
12 section of a general order without any other
13 considerations, then yes.
- 14 Q You were willing to overlook that at the time,
15 correct?
- 16 A Yes.
- 17 Q Okay. And that was again because of the facts
18 that Mr. Driediger had put to you in his
19 September 18th email including the relationship
20 between Harjeet Bajwa and Nupinder Bajwa and the
21 fact that she was Bob Dhillon's brother, correct?
- 22 A No.
- 23 Q You mentioned the Commission didn't do any
24 investigation, didn't take any enforcement action
25 into whether or not Harjeet Bajwa grew cabbage
26 without regulatory approvals. Will you start an
27 investigation now?
- 28 A Well, he grew cabbage and he wasn't licenced. We
29 have a process in place to address producers that
30 produce a crop and request market access without
31 delivery allocation. So we have a process in
32 place.
- 33 Q Well, the overall regulatory scheme requires
34 licences before growing, correct?
- 35 A I guess that's subject to interpretation.
- 36 Q The BCfresh -- the email from Mr. Driediger on
37 September 18th, it identified Mr. Bajwa as the
38 person who grew the cabbage. When you ultimately
39 found out that it was Van Eekelen's that grew the
40 cabbage, did you express any concerns to Mr.
41 Driediger that his September 18th email was
42 incorrect?
- 43 A No.
- 44 Q And you have no concerns --
- 45 A It's --
- 46 Q -- about that now?
- 47 A It's --

1 CNSL R. HIRA: Just a moment.

2 A He explained the situation on -- on the market
3 call.

4 CNSL D. DALKE:

5 Q And you were willing to overlook the inaccuracies
6 in this September 18th email so that you could
7 help him and Harjeet Bajwa and Van Eekelen's get
8 this cabbage to the market without it -- without
9 it going through Bajwa Farms, correct?

10 A No, I -- the cabbage was -- BCfresh wanted access
11 to cabbage it needed to market and delivery
12 allocation of Bajwa Farms is something that
13 BCfresh had relied on in the past and so it
14 needed product.

15 Q You knew that Bajwa Farms had a licence for
16 cabbage at the time that -- at the time that Mr.
17 Driediger came to you in September and through to
18 November 2020, correct?

19 A Correct.

20 Q And Bajwa Farms had a delivery allocation for
21 that cabbage at that time, correct?

22 A Correct.

23 Q And so this cabbage could have been brought to
24 market consistent with regulatory approvals,
25 consistent with the general orders if you had got
26 back to Mr. Driediger and Mr. Bajwa and said get
27 Nupinder Bajwa's agreement to market this cabbage
28 through Bajwa Farms with Bajwa Farms delivery
29 allocation, correct?

30 A I guess that would be correct.

31 Q But you didn't do that because that would have
32 required the proceeds of this cabbage to go
33 through Bajwa Farms Ltd. and they wouldn't have
34 gone to Mr. Bajwa and the Van Eekelens, correct?

35 A No, the request put forward was to use the
36 delivery allocation of Bajwa Farms and that was
37 heard -- that was brought forward to Commission
38 and it was denied so we had a process in place to
39 address a producer that does not have delivery
40 allocation to grant delivery allocation access --
41 to grant that access for that product to the
42 marketplace, we follow -- followed the policy
43 that was in place.

44 Q I don't have any further questions, Mr. Solymosi.
45 Thank you very much.

46 THE CHAIRPERSON: Thank you, Mr. Dalke. We're at --

47 JOANNE HAMILTON: Everyone's frozen.

**BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD
SUPERVISORY REVIEW HEARING**

**Videoconference
March 28, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**EXCERPT FROM PROCEEDINGS AT HEARING
(Day 11)
(Evidence of Murray Driediger)**

COPY

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1 Q And there was others as well?

2 A Yes. We marketed a variety of different crops
3 for Bajwa Farms, bunch of carrots. We had
4 marketed some zucchini. I believe some peas and
5 beans over the years, and cabbage was the only
6 regulated crop that we were marketing on their
7 behalf.

8 Q All right. With that, now, I'm going to take you
9 back to the email that you sent. Just give me a
10 moment. For the record, it's page 4445 of the
11 common book, Volume 1. This is the email dated
12 Friday, September 18, 2020. You can see we've
13 gone through the emails in 2019 when there was
14 discussion about planning for the 2020 cabbage
15 crop, and various emails that you exchanged with
16 Ms. Bajwa. You saw that?

17 A Yes. Is there supposed to be another document on
18 the screen right now?

19 Q Yes, I'm going to share that with you.

20 A Okay. Thank you.

21 Q All right. So you should have, now, the
22 September 18, 2020 email?

23 A Correct. I can see it.

24 Q So in the last sentence of the first paragraph --
25 or the paragraph numbered 1, you say:

26
27 You should also know that Nupinder is the
28 sister of Bob Dhillon and Bob has been
29 actively involved in this matter.

30
31 What did you mean by that, sir?

32 A Well, so a couple of things. First of all, it
33 was a very volatile situation. It was -- it
34 was -- there was, you know, significant
35 allegations being made against Mr. Bajwa. The
36 whole family was involved. I believe in some of
37 the allegations that were being made, the rumour
38 mill was running rife throughout the Valley.
39 Everybody in the area was well aware that it was
40 a very toxic situation and that any dealings in
41 the matter, you need to have your heads up on it.
42 So when I sent this email to Andre, I was trying
43 to be very clear to him and say, look it, this is
44 a very volatile situation here, proceed with
45 caution. Let's get the facts straight. You need
46 to know Bob's involved in it because you've been
47 under litigation with Mr. Dhillon for the last

1 two or three years so, you know, make sure you're
2 aware of what you're dealing with here. And this
3 is, you know, it's not an easy situation to
4 untangle. So --

5 Q What did you understand that Mr. Dhillon had been
6 actively involved with? In what manner was he
7 actively involved?

8 A We know Mr. Dhillon was involved in helping
9 market some of the crops that were involved on
10 the farm. For example, you know, we had -- they
11 had been growing bunch carrots for us for a few
12 years. They were bunch carrots supplier. We had
13 gone out and made commitments on behalf of their
14 product coming to BCfresh, and at the 11th hour,
15 we were told there would be no bunch carrots for
16 us that year. I believe that was 2019/2020 but,
17 at the same time, we were able to buy the same
18 bunch carrots under Sam Dhillon's label from
19 wholesalers in Vancouver for the same price that
20 we were actually contracted for originally with
21 Bajwa Farms.

22 So we knew they were involved in the
23 day-to-day operations. We knew that they were --
24 you know, there was no secret that they were
25 involved in the operations of the farm, so I just
26 want to make sure that Andre was aware that, you
27 know, he needed to be aware of what he was
28 dealing with.

29 Q So when you say, "they were involved," what do
30 you mean Mr. Bob Dhillon was involved in the
31 operation of Bajwa Farms?

32 A It had become an entire, you know, family
33 operation, so to speak. Nupinder and her son had
34 been running the farm initially in 2019, but as
35 the summer unfolded, it became apparent that, you
36 know, Mr. Dhillon and his father were more
37 engaged in the operation of the farm and were
38 working with Nupinder to some degree.

39 Q And, sir, did you have any concern about the fact
40 that Mr. Dhillon may have been helping his sister
41 on her farm?

42 A No, none whatsoever. I just wanted Andre to be
43 aware that it was a bit of a quagmire. The
44 information that I sent him, you know, it was
45 obviously it was going to be difficult to
46 untangle, and I wanted him to know that there was
47 also other overriding factors as well, so good

1 luck.

2 Q Sir, in the third numbered paragraph, you discuss
3 that Harjeet Bajwa has grown green and red
4 cabbage for storage this year. Financially, he
5 has grown the cabbage on his own without using
6 any equipment or finances of Bajwa Farms. You
7 see that?

8 A Yes.

9 Q Then you go on to say:

10
11 He is doing it with the help of other farms
12 trying to help him get on his feet again.
13

14 Let me just stop there. So, first, how did you
15 know that Harjeet had grown green and red cabbage
16 for storage in 2020?

17 A Well, Harjeet called me just shortly before this
18 email, and I had a conversation with him. It
19 covered a wide variety of things that were going
20 on. Based on what he told me, my understanding,
21 I told him, I said, if you've grown cabbage, then
22 I have an obligation to inform the commission
23 because it's now become a commission matter as to
24 how that product is going to go to market. And
25 he understood that I would be giving Andre a
26 call. So shortly after that phone call, I phoned
27 Andre and I told him, basically, the conversation
28 as it had been described to me. And he said, put
29 it all down in the form of an email so I
30 understand exactly what it is that I'm dealing
31 with, which I did. I did based on what -- how it
32 was described to me.

33 Q Sorry, the statement:

34
35 He is doing it with the help of other farms
36 who are trying to help him get on his feet
37 again.
38

39 What did you understand -- who did you understand
40 the other farms were that were trying to help
41 Mr. --

42 A There was a few -- I think that -- there was a
43 few farms that I assume that were helping Harjeet
44 to get back on his feet again. But the one that
45 I was referencing was Van Eekelen.

46 Q How did you know that?

47 A Because I believe he was working with Van Eekelen

1 farms.

2 Q But did you know that before your phone call or
3 how did you come to that knowledge?

4 A That's a good question. I don't know. I don't
5 recall, but I believe it was common industry
6 knowledge that he was working for Van Eekelen
7 farms.

8 Q Sir, were you aware that prior to this year that
9 Van Eekelen farms had leased land to Bajwa Farms?

10 A I'm not aware of the, you know, the inner
11 workings of Bajwa Farms and what their leases are
12 and who they deal with. I don't know.

13 Q Sir, it goes on to say in your email:

14
15 He would like to ship the cabbage to
16 BCfresh. In his view, he's still an owner
17 of Bajwa Farms and --
18

19 So did Mr. Harjeet Bajwa suggest to you he wanted
20 to ship the cabbage to BCfresh?

21 A Well, that was -- that was certainly what I felt
22 was the conversation. However, I'm not sure if
23 this is the appropriate time but subsequent to
24 this conversation, it was a couple of weeks
25 later, I was having a conversation with the
26 principal of Van Eekelen farms, Ria Van Eekelen,
27 and it was during that conversation -- we deal
28 with them with some nonregulated crops -- and it
29 was during that time I asked her, I said:

30
31 How was the cabbage that's being grown by
32 Harjeet on your farm? How is it doing?
33

34 And she said:

35
36 Well, what do you mean?
37

38 And I said:

39
40 Well, I'm under the understanding that
41 Harjeet is growing some cabbage on your
42 farm.
43

44 And she said:

45
46 No, you're mistaken. We are growing
47 cabbage; Harjeet is just an employee of Van

- 1 created this email and provided information to
2 him that I no longer had confidence were the
3 exact facts so I thought I -- you know, as an
4 agency of the commission, I felt obligated that I
5 had to call him right away and let him know that
6 I may have misled him on the initial information
7 that I provided.
- 8 Q Did you send any email in that regard or just a
9 telephone conversation?
- 10 A No, I didn't send an email but it was -- I
11 believe it was brought up on one of the pricing
12 calls sometime after that. And we discussed, you
13 know, exactly, you know, what we felt were the
14 facts of, you know, we had cabbage out there that
15 was being grown by somebody and the cabbage had
16 to get to market and we had to figure out what
17 was the appropriate way to get that cabbage to
18 market so it remained within the regulations of
19 the commission.
- 20 Q Did you ever have any discussion with
21 Nupinder Bajwa about this issue of Harjeet or
22 Van Eekelen wanting to -- wanting to grow
23 cabbage?
- 24 A No, I did not. It was not my place. At that
25 point, it becomes a commission matter. We were
26 unaware of the cabbage being grown. We were
27 unaware of the court order as far as the details
28 in the court order. We were unaware of --
29 obviously, by the time I talked to Ria, who
30 actually owned the cabbage, so at that point, it
31 was a bit -- it's a commission matter and I had
32 an obligation to forward the information to the
33 commission.
- 34 Q Sir, did you -- did BCfresh eventually sign a GMA
35 with Van Eekelen?
- 36 A Yes, we did.
- 37 Q And did BCfresh then market the cabbage for
38 Van Eekelen?
- 39 A Yes, we did, and on the agency call when the
40 matter was discussed, because this is what
41 happens when there's product out there that
42 doesn't have delivery allocation attached to it,
43 all of the agencies have to have input and make
44 sure that it's not going to interfere with any
45 other sales that were out there. So what happens
46 in a case like this we offered to market the
47 cabbage but we would only market it once all of

- 1 colleagues at BCfresh -- I think you mentioned
2 Rick Gilmore and Rudi Jaster, for example -- you
3 would keep a close watch on products on what's
4 being produced by producers who ship through
5 BCfresh; correct?
- 6 A Yes. When growers give us projections and then
7 when they were starting to get close to
8 production, they would ask Rick to come out to
9 the field and take a look at the crop and help
10 them assess when they thought would be a good
11 starting date and other relevant information that
12 we felt as a marketing agency we should be aware
13 of from everything from the variety to whether,
14 you know, it was an undersized crop, oversized
15 crop, good yield, poor yield so we could make
16 appropriate plan to place the product in the
17 marketplace.
- 18 Q And that would start fairly early in the year in
19 terms of getting the projections from the growers
20 and then visiting their fields and looking at
21 what they're growing; correct?
- 22 A Yes. We like to have everybody's planting
23 intentions in by January, if possible, and then
24 we follow up again in March to revise them to
25 make sure that we're still on track. Sometimes
26 growers are unable to secure land; sometimes
27 they're unable to secure the seed that they
28 wanted or sufficient seed, so there's some last
29 minute changes so we try and update the
30 information as much as possible.
- 31 Q And you'd be out in the spring and summer while
32 the crop is growing and taking a look at it and
33 see how it's progressing; correct?
- 34 A To the best of our ability, but there are
35 literally hundreds of fields out there so it's
36 hard to keep track of all of them and we don't
37 know where they all are.
- 38 Q And the other thing in terms of your overall role
39 and your work history, having worked at the
40 commission and then with BCfresh, you're very
41 familiar with the commission's general orders;
42 correct?
- 43 A Yes, I am.
- 44 Q And you expect growers who ship through BCfresh
45 to comply with the commission's general orders;
46 correct?
- 47 A Correct.

- 1 Q And it's important from BCfresh's perspective
2 that the commission enforce the rules for orderly
3 marking; correct?
- 4 A Correct.
- 5 Q And you -- from your perspective as well, you're
6 not going to help growers bend the rules or do
7 things outside the rules; correct?
- 8 A Certainly not our intention, no. Our job is to
9 try and find ways to bring the product to market
10 and if they haven't followed the traditional
11 channels, then we forward the information to the
12 commission.
- 13 Q Okay. In terms of Bajwa Farms, prior to the
14 marital dispute between Nupinder and
15 Harjeet Bajwa, BCfresh dealt primarily with
16 Harjeet Bajwa; is that correct?
- 17 A That is correct, yes. But in our visits out to
18 the farm, we would often see Nupinder and from
19 time to time one of the kids.
- 20 Q Right. And I think you talked about the rumour
21 mill in your responses to Mr. Mitha's questions
22 and you knew fairly quickly about Harjeet's
23 arrest on criminal charges; correct?
- 24 A Yeah, when a grower that's shipping through you
25 gets hauled away and put in jail, the word gets
26 around the industry pretty quickly.
- 27 Q Right. And I imagine word's gotten around that
28 he pleaded guilty to assault two weeks ago and
29 has been sentenced in respect to that?
- 30 A I heard something to that effect, yes.
- 31 Q And going back to the summer of 2019, shortly
32 after the marital dispute and Mr. Harjeet's
33 arrest, you were aware that Nupinder was
34 concerned about Harjeet getting a hold of funds
35 that belonged to Bajwa Farms; correct?
- 36 A No, I had absolutely no knowledge of any of this.
- 37 Q Okay. Maybe I can help refresh --
- 38 A Oh, pardon me, are you referring to the pool
39 cheque -- from the pool proceeds from the cabbage
40 that they were selling to us?
- 41 Q Yeah, I'm not sure if it was -- it must have been
42 cabbage, I guess --
- 43 A Yeah, I believe so, yes. She sent us an email
44 asking that we not release the funds to anybody
45 but, I believe, her or her daughter in which we
46 complied.
- 47 Q And you specifically replied to that; correct?

Murray Driediger (a witness)
Cross-exam by Cnsl D. Dalke

- 1 A Yes, I did.
- 2 Q And I just want to make sure that we got your
3 authentication of that email, so let me see if I
4 can bring that up here, then. Bear with me a
5 moment. I will attempt to share the screen here.
6 And this is from Exhibit 4. This is the
7 July 19th email from you to a number of growers;
8 correct?
- 9 A That's correct. It's a standard email that I
10 send out prior to the 20th advising what day the
11 pool cheques would be ready and what time.
- 12 Q And then Bajwa Farms relies, Nupinder Bajwa, "do
13 you know how much the payment is for?" You reply
14 that Monica will get back to her. Then Monica
15 does reply, and Nupinder writes to Monica asking
16 to ensure that the funds are not released to
17 Harjeet Bajwa, and you reply to that, "duly
18 noted"; correct?
- 19 A Correct.
- 20 Q And you were also aware in August of 2020,
21 Nupinder wanted to know whether Harjeet was
22 growing cabbage for BCfresh. Do you recall that?
- 23 A No.
- 24 Q So let me bring that up. This is not a document
25 that's been exhibited yet. It's an August 24th
26 email that was sent by Mr. McDonell to Mr. Mitha
27 and then circulated, so I will share that as
28 well. Do you see that, Mr. Driediger?
- 29 A Yeah, that's -- I believe I've seen that, yes.
- 30 Q Right. And so that's Rick reporting to you on
31 his visit to Bajwa Farms and his discussion with
32 Nupinder?
- 33 A M'mm-hmm.
- 34 Q And at the bottom of the email, he writes:
- 35
- 36 You did ask me is not Harjeet growing
37 cabbage for you guys this year. I told her
38 to my knowledge, no, and I have not had any
39 contact with Harjeet this entire season.
- 40 A Okay.
- 41 Q So you were aware as of August 24th that Nupinder
42 was interested in knowing whether Harjeet was
43 growing cabbage for BCfresh; correct?
- 44 A I guess so.
- 45 CNSL D. DALKE: Mr. Chair, can I ask this be marked as
46 the next exhibit?
- 47 THE CHAIR: Yes, thank you, Mr. Dalke. I believe

1 that's Exhibit 27.
2 CNSL D. DALKE: Thank you.
3

4 **EXHIBIT 27: August 24, 2020 email sent by**
5 **Mr. McDonell to Mr. Mitha**
6

7 CNSL D. DALKE:

8 Q Mr. Driediger, do you agree that food safety is
9 of high priority of BCfresh, a top priority?

10 A Yes, it is.

11 Q And part of that is BCfresh requires that all
12 farms that ship through it are audited and
13 accredited by Canada Good Agricultural Practices,
14 or CanadaGAP; correct?

15 A CanadaGAP, that's correct.

16 Q And part of putting that into practice is BCfresh
17 requires in its GMA that it's growers agree to be
18 audited by CanadaGAP; correct?

19 A That's correct.

20 Q And so one thing you do to make sure that they're
21 complying with that is to provide -- the growers
22 are required to provide their food safety
23 certificates to BCfresh; correct?

24 A Yes, as part and parcel, they would have -- they
25 would have supplied a food safety audit occurred
26 -- food safety certification. Those take place
27 throughout the year, Mr. Dalke, so they're not --
28 it's not something that takes place at the
29 beginning of the year. Lots of audits transpire
30 right through the winter months so there is
31 usually a partial audit, you know, where the
32 auditor will go and look in the field, see some
33 produce being grown, and then come back at a
34 later date when a product is being packed to
35 confirm the audit review, all of the records of
36 the production records and so on, and then they
37 sign off on the audit.

38 Q Thank you. I just wanted to ask you about the
39 interview report that Mr. Mitha prepared. If you
40 could -- I'll try to put it up on the screen but
41 if you have it in front of you, it may be helpful
42 as well. The section that relates to
43 Bajwa Farms.

44 A Yes, I have it in front of me, Mr. Dalke.

45 Q Great. And do you see it on the screen as well,
46 now?

47 A Yes.

Murray Driediger (a witness)
Cross-exam by Cnsl D. Dalke

1 next exhibit as well, Mr. Chair?

2 THE CHAIR: Yes, Mr. Dalke, I think we're at
3 Exhibit 28.

4 CNSL D. DALKE: Thank you.

5

6

7

8

9

**EXHIBIT 28: Email from Mr. Driediger on
June 17, 2020**

10 CNSL D. DALKE:

11 Q We looked a moment ago at the August 24, 2020
12 email which also addresses whether Nupinder was
13 growing cabbage in the first line there. That
14 would be Exhibit 27, I believe:

15 I contacted Nupinder again today while I was
16 out there. I think we all knew she would
17 not be growing green cabbage but I followed
18 up anyway. She got no extra land so there
19 is no late green cabbage coming from this
20 farm so I just left the contracts with her
21 to discard. Hope that's okay.

22

23

Do you recall that?

24

A Yeah, I remember the email, yes.

25

26 Q Going back to your witness statement, you
27 clarified in your evidence in response to
28 Mr. Mitha that you didn't believe that
29 Bob Dhillon had removed all the equipment but
30 some of the equipment; correct?

31

A That's correct.

32

33 Q And that's something you heard from Harjeet;
34 correct?

35

36 A No. Actually, I heard it from some other growers
37 in the area as well. There was not a lot of
38 secrets with what was going on out there. After
39 Harjeet was taken away, there was security that
40 was hired, you know, they were up and down
41 Tolmie Road, out in front of the Bajwa farm, out
42 in front of the Dhillon farm. There was -- Bob
43 was on a bit of a rampage and basically telling
44 anyone who would listen that Harjeet was going to
45 jail and, you know, it was just -- it was just a
46 very volatile situation and it was, quite
47 frankly, the whole thing, it was sad what had
happened.

48

Q So those statements about equipment being removed
that was something that you heard through the

1 rumour mill. It wasn't something that you
2 observed yourself; correct?
3 A No, I was not out there, no.
4 Q Okay. And you didn't hear that from Nupinder?
5 You didn't ask her view on that?
6 A No, no. I went out to see Nupinder, I believe,
7 in the spring of 2020. I went out to the farm.
8 Sahil was there. I had a packaging rebate
9 cheque. I introduced myself again. I wasn't
10 sure if he remembered me. Just asked him how
11 things were going and try to make sure that we
12 had open dialogue with the family.
13 Q Okay. That would have been the only personal
14 observation you would have had in terms of the
15 period of 2020?
16 A Yeah, I believe so, yes.
17 Q And in your witness statement, you say you didn't
18 know who owned the cabbage. See that?
19 A Yes. I testified earlier about the email that I
20 sent.
21 Q Right.
22 A And then the subsequent conversation with
23 Van Eekelen.
24 Q But when you sent that email, you believed it was
25 Harjeet's cabbage; correct?
26 A That was, I believe, how it was described to me.
27 Q By Harjeet?
28 A Yes.
29 Q Did you notice --
30 A And to be fair, Mr. Dalke -- and I'm not looking
31 for excuses here -- but I normally wear hearing
32 aids, and I hadn't worn hearing aids for some
33 time because of the mask mandate and I kept
34 pulling off my hearing aids, and I wasn't wearing
35 hearing aids that day. I have a very difficult
36 time understanding Harjeet; he has a very soft
37 voice, but what I conveyed to Mr. Solymosi was
38 what I felt Mr. Bajwa had conveyed to me.
39 Q Right. And the reason that you were conveying
40 that to Mr. Solymosi was because you were
41 expecting the commission to take action with
42 respect to it; right?
43 A I didn't know what to do. If, in fact, he had
44 grown cabbage, he was still 50 percent or so
45 owner of the farm. I didn't know what the legal
46 ramifications of that were. You know, there was
47 still -- there was cabbage DA that wasn't being

1 September that he was working with Van Eekelen
2 through 2020; correct?
3 A Yes, that's correct. I was aware of that.
4 Q And I think you said in response to Mr. Mitha,
5 you knew or assumed it was Van Eekelen who helped
6 him -- you made reference in your email of him
7 being helped by someone, other farmers, and you
8 knew that it was Van Eekelen with respect to the
9 cabbage; correct?
10 A I believe that's correct, yes.
11 Q Okay. Maybe I should turn up the email, if you
12 have it. You have it in front of you, your
13 September 8th email to Mr. Solymosi?
14 A No, I don't. Please put it up.
15 Q Okay. I'll put it up.
16 A Thank you.
17 Q Do you see it now, Mr. Driediger?
18 A Yes.
19 Q So you mentioned that you maybe had some trouble
20 hearing Mr. Harjeet Bajwa when he was talking to
21 you. You mentioned in your -- in the witness
22 statement notes from your discussion with
23 Mr. Mitha that you didn't know who owned the
24 cabbage. But in your email to Mr. Solymosi, you
25 were pretty definitive that it was Harjeet's
26 cabbage, don't you agree?
27 A Yes. Based on the conversation that I had with
28 him --
29 Q Right.
30 A -- that was -- that was what I put down in
31 writing and sent to Andre. That is correct.
32 Q Right. And you understood that Andre was going
33 to be taking that to the commissioners to make a
34 decision in respect to it and it was important
35 that you provide Mr. Solymosi with accurate
36 information; correct?
37 A No, I was assuming that Andre would have to
38 verify the information in some way, shape, or
39 form. That you can't just take an email from me
40 and proceed to a decision-making process. There
41 was some due diligence that was required. And I
42 said that at the bottom, this is without a doubt
43 the most unusual situation I've been involved in
44 and I'm not sure how to proceed. So I was asking
45 for guidance from Mr. Solymosi and I believe that
46 he was, you know, getting some advice either from
47 legal counsel or commission members or the

1 commission chair. And I'm not sure how far down
2 the road they were when I had my conversation
3 with Ms. Van Eekelen and subsequently found out
4 that it was not Harjeet's cabbage; it was their
5 cabbage. And I then forwarded that information
6 to the commission and I said, guess what, there's
7 a new wrinkle here.

8 So I think the important thing here,
9 Mr. Dalke, is, in the end, I believe that the
10 commission got it right that the cabbage belonged
11 to Van Eekelen and that we went through the
12 proper regulatory channels to bring that product
13 to market. So I was certainly not trying to
14 mislead Mr. Solymosi. I was simply providing the
15 information as I thought it was described to me.

16 Q But you were looking for a specific result. You
17 were hoping that, first of all, that BCfresh
18 would be able to market the cabbage; correct?

19 A Well, I was prepared to market the cabbage,
20 absolutely.

21 Q Right. You were also hoping that it would be
22 marketed with the benefit of going under
23 Bajwa Farms delivery allocation; correct?

24 A No, not necessarily, but, you know, having said
25 that, I certainly don't want -- didn't want
26 either Nupinder or Harjeet or Bajwa Farms to lose
27 their delivery allocation either. So if, in
28 fact, if it was Harjeet's cabbage and the
29 delivery allocation wasn't being used, if there
30 was a way for, you know, an agreement that could
31 be reached between the parties to use the
32 delivery allocation so it wouldn't be lost and
33 would still be an asset to them jointly, I
34 thought that was fair as well if that's where the
35 evidence and the information led them, but that
36 was not for me to sort out. That was up to the
37 commission to sort that out.

38 Q And it was better for BCfresh's perspective to
39 have it marketed under delivery allocation
40 because then you could sell it for sure. You
41 didn't have to wait until the following year and
42 have it be sold in dribs and drabs as other
43 growers have fulfilled their delivery allocation
44 and then, as you mentioned, ton for ton for other
45 growers it has to be shared, et cetera. It would
46 have been in BCfresh's interest to have this sold
47 with the benefit of Bajwa Farms delivery

Murray Driediger (a witness)
Cross-exam by Cnsl D. Dalke

1 know the answer to that. I was not aware of the
2 legal agreements between Nupinder and Harjeet. I
3 had no idea what was at stake as far as that
4 went, so I forwarded it to the commission.
5 Q So let's look at paragraph 3 of your email, you
6 wrote:

7
8 Harjeet Bajwa has grown green and red
9 cabbage for storage this year. Financially,
10 he's grown the cabbage on his own without
11 using any equipment or finances from
12 Bajwa Farms. He's doing it with the help of
13 other farms who are trying to help him get
14 on his feet again. He would like to ship
15 the cabbage through BCfresh.

16
17 Is that all the information you got from
18 Mr. Bajwa?

19 A That's correct, yes.

20 Q And, in his view, he's still an owner of
21 Bajwa Farms and has DA. If his wife chose not to
22 grow the cabbage, then he has a right to the DA
23 but the proceeds cannot go through Bajwa Farms as
24 they have had no financial involvement with the
25 growing of the crop. That was all information
26 Harjeet relayed to you in the telephone call?

27 A I believe so, yes.

28 Q Okay. And then paragraph 4, you write:

29
30 I do not think there will be any agreement
31 to transfer the DA to Harjeet absent of
32 broader settlement with the court as it
33 forms part of the assets.

34
35 Is that information you got from Harjeet as well?

36 A No. That was my comment to Andre. But it
37 certainly didn't preclude him from seeing if
38 there would be an agreement between Harjeet and
39 Nupinder to use the delivery allocation so that
40 they didn't lose any but I -- I think that was my
41 comment in there.

42 Q Okay. So number 4 was your commentary based on
43 what we can --

44 A I believe that was -- I believe that was my
45 comment, yes.

46 Q You mentioned in your earlier evidence that you
47 stressed to your staff, after the marital

- 1 difficulties arose between Nupinder and Harjeet,
2 that it was very important for BCfresh to remain
3 neutral and not take any sides between Nupinder
4 and Harjeet; correct?
- 5 A Correct.
- 6 Q Did you talk to Nupinder at all before you sent
7 this email to Mr. Driediger [sic]?
- 8 A No.
- 9 Q And did you -- pardon me. Before you sent the
10 email to Mr. Solymosi?
- 11 You had a telephone call with Mr. Solymosi
12 and you've relayed everything that you thought
13 was important for the commission to know in your
14 email; correct?
- 15 A I forwarded the information as I felt it was
16 described to me. There was no reason why the
17 commission couldn't do further due diligence on
18 the matter. I was simply providing information.
- 19 Q You didn't tell him in your email that you never
20 spoke to Nupinder; correct?
- 21 A No, no. That's -- it's not my job to sort that
22 out. There was litigation between -- there was a
23 family dispute going on and this is -- this was a
24 commission matter, in my view. It was not a
25 matter of BCfresh to get involved in, you know, a
26 marital dispute. I turned the matter over to the
27 commission because I thought that was the
28 appropriate thing to do.
- 29 Q And so your expectation, then, was that the
30 commission would go to Nupinder and get her view
31 on the information that you had provided to
32 Mr. Solymosi because you provided Mr. Solymosi
33 only Harjeet's side of the story; correct?
- 34 A I would assume there would be further due
35 diligence that would be done, correct.
- 36 Q You would have expected the commission to do that
37 further due diligence; right?
- 38 A I would assume that part and parcel of the due
39 diligence was to -- was to talk to Harjeet, talk
40 to the principals that were involved and try and
41 determine what a fair course of action was.
- 42 Q And talk to Nupinder; right?
- 43 A Well, that was certainly -- that was certainly
44 something that was open to them, yes.
- 45 Q Isn't that something you would have expected them
46 to do?
- 47 A Well, that's not my job to determine what the

- 1 Q Right. But Bajwa Farms was doing business with
2 BCfresh for years?
- 3 A Bajwa Farms had been doing business with BCfresh
4 for years. They had not been doing any business
5 with BCfresh in 2020.
- 6 Q But it was the company Bajwa Farms that had
7 signed growers marketing agreements with BCfresh,
8 not Harjeet; right?
- 9 A That is correct.
- 10 Q And so if you're going to the commission with
11 information about Bajwa Farms and there's a
12 marital dispute and you're trying to be
13 evenhanded in that, wouldn't it be important for
14 you to get Nupinder's view or at least tell
15 Mr. Solymosi that you haven't talked to Nupinder?
- 16 A You know, Mr. Dalke, I didn't want anything to do
17 with it. I gathered the information; I forwarded
18 it to Andre. It was a very volatile situation
19 out there. I did not want to get involved in it.
20 I just wanted direction. I said, look it, it
21 looks like there's cabbage being grown; we're
22 prepared to market it. Please sort out, you
23 know, how this should happen; who owns it; who
24 should get paid and how we're supposed to do it.
- 25 Q You didn't ask Mr. Solymosi to sort out who owned
26 it because you wrote to him pretty unequivocally
27 that it was owned by Harjeet, don't you agree?
- 28 A I've explained this several times, Mr. Dalke,
29 that I passed on the information to the best of
30 my knowledge, and then when I found out the
31 information contrary to this, I passed that
32 information on to Mr. Solymosi as well.
- 33 Q When did you hear from -- was it Ria Van Eekelen?
- 34 A It was probably about two weeks after this email.
- 35 Q And so you called Mr. Solymosi right away, then?
- 36 A Yes, I did.
- 37 Q You didn't send him an email to correct your
38 September 18 email?
- 39 A No. I picked up the phone and called him.
- 40 Q What did you say to him?
- 41 A I said, I have contrary information. I conveyed
42 the conversation that I had with Ria Van Eekelen
43 and I said, I think you need to follow up. I do
44 not believe if what Ms. Van Eekelen is telling me
45 is correct, that they should have access to the
46 Bajwa Farms delivery allocation. It would have
47 to go through a different mechanism in order to

1 Q Okay. Do you see the bottom bullet, he says:

2
3 I spoke to Harjeet the week of October 12th
4 to get an update from him. He confirmed
5 that he has not yet shipped any product and
6 that the crop will be ready for shipment at
7 the end of October. On October 19th,
8 BCfresh informed that the crop will be ready
9 for shipment the week of October 26th.

10
11 Would that October 19th information from BCfresh
12 come from you to Mr. Solymosi?

13 A I'm not sure.

14 Q Okay. Do you recall speaking to Mr. Solymosi
15 around October 19th?

16 A When the crop was going to be ready? I'm not
17 sure. I do know that, at some point, I sent
18 Rick Gilmore out to Van Eekelen's to actually
19 physically look at the field, and it was a very
20 late planting. We were unsure, at the time, if
21 it was going to reach maturity. There was some
22 product that was going to be available at some
23 point in October but from his opinion, there was
24 no rush because the product had yet to really
25 size up. So there was some time to make a
26 determination as to what we were going to do with
27 the product or what was going to be done with the
28 product.

29 Q Do you agree it's highly unusual to have a
30 situation where a grower, like Harjeet, is coming
31 to you in September to say they got product to
32 ship?

33 A Yeah.

34 Q That's not usually how it's supposed to work;
35 correct?

36 A That's correct. Not the first time, not the
37 first time, but it is unusual.

38 Q Right. As you mentioned earlier, you want to
39 know in January and confirm in March what your
40 growers are going to be producing; right?

41 A It is -- in order for us to do a proper job, it's
42 more knowledge we have in advance of the crop,
43 the better off we all are. If something is being
44 grown or shipping out of storage, it's not
45 necessarily an immediate concern, Mr. Dalke, not
46 like something that is a summer crop, you know,
47 where time is of the essence. There's a lot of

- 1 heat, a lot of irrigation going on, a crop can
2 change very quickly from being marketable to
3 unmarketable in a matter of days. So that was a
4 bit of a different situation than what we were
5 dealing with in this particular situation, which
6 was a storage crop.
- 7 Q And in the 2020 growing year, you were already
8 dealing with the Van Eekelens for, you said,
9 unregulated crops; correct?
- 10 A Yes. I wasn't dealing with them but they would
11 have been -- they would have been dealing with
12 probably Rudi within our company on a day-to-day
13 basis, yes.
- 14 Q So they would have been engaged with BCfresh from
15 January, certainly by March, to give you
16 information about what unregulated crops they
17 were growing; correct?
- 18 A Correct.
- 19 Q So you must have been really shocked, then, to
20 hear Ria Van Eekelen telling you that the cabbage
21 belongs to Van Eekelen because I understood the
22 Van Eekelens to be a fairly experienced grower.
23 Were you shocked by that?
- 24 A Yeah.
- 25 Q You would have expected the Van Eekelen's to be
26 in touch with BCfresh if they were growing
27 cabbage back in January and March, wouldn't you
28 have?
- 29 A I would have assumed that we would have had
30 dialogue prior to the 17th or the 18th of
31 September. Having said that, from what we had
32 seen in the field, it was a very late planting,
33 so I don't think the field was planted until
34 sometime in July. And often fields that are
35 planted that late don't even come to fruition
36 so -- in cabbage fields, depending on the
37 variety, depending on the fall. But yes, I was a
38 little surprised that I didn't know earlier.
- 39 Q If they had planted it in July, you would have
40 expected them to tell you then that they were
41 planting cabbage and hoping to sell it through
42 BCfresh; right?
- 43 A I should have known about it -- we, as a company,
44 should have known about it before the 18th of
45 September.
- 46 Q Before it got planted, that would be normal
47 course?

1 A We certainly should have known about it before
2 the 18th of September.
3 Q Do you agree you would have normally known about
4 it before it got planted?
5 A Normally, that is correct.
6 Q So in this discussion that you had with
7 Mr. Solymosi once Ms. Van Eekelen told you that
8 it belonged to Van Eekelens and not Harjeet, did
9 you simply say to Mr. Solymosi, hey, now I have
10 information that it belongs to the Van Eekelens
11 so you better do something about it? Or what was
12 the -- what was the extent of your conversation
13 with Mr. Solymosi at that point?
14 A I believe I told Mr. Solymosi that the
15 information I initially provided him may not be
16 accurate and that he needed to do further due
17 diligence on the matter based on the conversation
18 I had with Ms. Van Eekelen.
19 Q Okay. And did you follow up with him about what
20 due diligence he was doing on that?
21 A I don't recall, Mr. Dalke.
22 Q Did he ever ask you for any more information or
23 assistance with that due diligence?
24 A No, other than it was raised at some point in
25 October on one of the agency manager's Tuesday
26 pricing call that there was some cabbage that had
27 been grown without delivery allocation, and the
28 commission was sorting through how they were
29 going to handle that. It wanted to know if any
30 of the other agencies would have any
31 difficulty -- I don't think it was a lot of
32 volume -- with the additional volume being
33 marketed by BCfresh. I think there was some
34 questions, there was more information that was
35 requested, and I think that was done at some
36 point in a call a week or two later.
37 Q Was that you who raised that in the pricing call
38 or was that Andre?
39 A I can't remember. I think it was Andre, but I'm
40 not 100 percent sure, Mr. Dalke.
41 Q Okay. So when Ms. Van Eekelen told you that the
42 cabbage belonged to the Van Eekelens rather than
43 Harjeet, were you still hoping that BCfresh would
44 market that cabbage or?
45 A I was assuming that we would be the agency that
46 would be marketing it, correct. I wasn't led to
47 believe anything different.

1 date that I signed it for whatever reason.
2 Q So when you signed it, did it already have
3 Van Eekelen Enterprises and an address typed in
4 here?

5 A Yes, it would have, yes. I believe so, yes.

6 Q Okay. Just to go back to your email, you
7 mentioned in your email that in paragraph 1:

8
9 You should also know that Nupinder is the
10 sister of Bob Dhillon and Bob has been
11 actively involved in this matter.
12

13 And gave some evidence with respect to that when
14 you were answering Mr. Mitha's questions.
15 The reason you put that in there was to have the
16 commission look favourably on Harjeet's request
17 to use the Bajwa Farms' delivery allocation
18 because, at that point, you were aware that the
19 Dhillon family, Bob Dhillon in particular, had
20 been at odds with the commission for several
21 years; correct?

22 A No, that's not correct, Mr. Dalke. It's not
23 correct at all. I was simply giving Andre a
24 heads up. The commission had been in litigation
25 with Mr. Dhillon and Prokam for a number of
26 years. I needed him to be aware that this matter
27 involved Bob's sister and that, you know, it was
28 potentially sensitive situation. I just -- I
29 felt compelled that he should know that so that
30 he treaded very carefully in the matter.
31 Completely the opposite of what you're
32 insinuating. I wanted Mr. Solymosi to make sure
33 that he did his due diligence because the odds
34 were that if they got it wrong, that he would
35 probably be, you know, succumb to further
36 litigation.

37 So I was giving him the heads up which was,
38 I believe, the responsible thing to do to make
39 sure he got it right. And there's no inference
40 whatsoever that treating Mr. Bajwa, you know, in
41 more favourable matter than Nupinder. You
42 couldn't be farther from the truth.

43 Q And part of making sure that Mr. Solymosi got it
44 right, then, from your perspective, was that
45 you'd expect him to speak to Nupinder, then, or
46 perhaps Bob Dhillon, for that matter, so he'd
47 have the full story and not just Harjeet's story;

1 correct?

2 A Well, I was hoping that he would do further due
3 diligence. I wanted to make sure that whatever
4 the decision was that the commission got it
5 right, you know, so we weren't dealing with this
6 thing down the road months and years after the
7 fact as appears we are now. I wanted to make
8 sure that they made the right decision and they
9 got all the facts straight.

10 Q Right. And if there's a marital dispute and
11 you've relayed the story from one side, you'd
12 expect the commission to talk to the other side
13 in the marital dispute; correct?

14 A You know, Mr. Dalke, I've never been involved --
15 of all my years in the commission and regulated
16 marketing, which is now in excess of 25 years,
17 I've never been involved in a situation where
18 there was a marital dispute, delivery allocation
19 involved, allegations of physical abuse and so
20 on. In all my 25 years, this is the first time
21 I've ever been involved in this.

22 We needed to tread carefully to make sure
23 that the commission got it right. Our company
24 was treading very carefully in the matter as
25 well. We were trying very hard not to take sides
26 here. I can't emphasize that enough. I have a
27 great deal of respect for Nupinder and her
28 children. All my dealings with Harjeet, as well,
29 have been above board and honourable.

30 We're not trying to take sides and whatever
31 happened in this relationship, you know, it's a
32 very sad situation when things like this happen
33 and we wanted to make sure we were doing things
34 right. So any inference to the contrary, quite
35 frankly, is very disheartening to me because it's
36 something that I take very seriously, Mr. Dalke.

37 Q I'm going to show you another document,
38 Mr. Driediger. It's another email that was sent
39 by BCfresh on September 18th. Do you see this
40 email from Rudi Jaster to Nupinder Bajwa?

41 A Yes.

42 Q It was sent at 10:57 A.M. and I think your email
43 to Mr. Solymosi was sent at 9:14 A.M.; correct?

44 A Yeah, I wanted to know -- I wanted to confirm
45 whether Nupinder had actually grown any cabbage
46 because, at this particular point, you know, if
47 Harjeet was going to be asking to use the

1 delivery allocation, you couldn't very well do
2 that if Nupinder changed her mind at the 11th
3 hour and grew cabbage without our knowledge. So
4 this was to confirm that they had not, in fact,
5 grown cabbage.

6 Q Because you wrote in your email to Mr. Solymosi
7 that they hadn't grown cabbage; right?

8 A To our knowledge, that's correct.

9 Q So the only thing -- so this email was sent on
10 your instructions?

11 A I asked Rudi to follow up. I asked Rick to
12 follow up. We were caught off guard by this.
13 Rick wasn't aware that there was any cabbage
14 being grown out there and usually, he's the first
15 one to get a whiff of something like this. So I
16 believe that I instructed him to go out and
17 actually take a look at the field to see what it
18 was we're dealing with. And I instructed Rudi to
19 find out whether Nupinder had grown some cabbage
20 as well. I wanted to try and get as many facts
21 out as what we could.

22 Q But part of those facts weren't finding out
23 Nupinder's views on whether or not the delivery
24 allocation could be used by Harjeet; correct?

25 A That was -- no. That was a commission matter,
26 Mr. Dalke. That's not something -- that's, you
27 know, you've got a matter that's before the
28 courts here. It's not a matter for BCfresh. It
29 was a matter that was before the courts. It was
30 in front of the commission. At that point,
31 we're -- we have to abide by whatever the
32 instructions are and we were looking for
33 guidance.

34 Q Less than a month earlier on August 24, Nupinder
35 asked Rick if -- Rick Gilmore, I think, if
36 Harjeet was growing any cabbage for BCfresh, and
37 then within a month, you get a request by Harjeet
38 to use Bajwa Farms delivery allocation and sell
39 his cabbage through BCfresh.

40 Did it occur to you to let Nupinder know
41 that Harjeet had made that request?

42 A A month later?

43 Q Yeah.

44 A No. That would be up to -- that would be up to
45 the commission. That's not up to us. We're not
46 the holders of the delivery allocation,
47 Mr. Dalke, the commissioners -- the commission is

- 1 the holder of the delivery allocation.
- 2 Q You knew that Nupinder wanted to know whether
3 Harjeet was growing cabbage for BCfresh; right?
4 That's something between Bajwa Farms and BCfresh?
- 5 A She had asked Rudi, I believe, or Rick if he knew
6 if Harjeet was growing cabbage and Rick said, no,
7 not that I'm aware of.
- 8 Q Right, and then you became aware of it within a
9 month?
- 10 A Yeah.
- 11 Q And nobody at BCfresh thought to let Nupinder
12 know, yeah, by the way, Harjeet is growing
13 cabbage and he's trying to use the Bajwa Farms
14 delivery allocation to sell his cabbage?
- 15 A Mr. Dalke, we weren't aware of any of the legal
16 agreements between Nupinder and Harjeet, okay.
17 We had -- none of that had been disclosed to us.
18 There have since been litigation that we've been
19 copied on where it's apparent that there was some
20 kind of an understanding or an agreement that was
21 reached between the parties, or that the court
22 had made certain decisions. Those documents had
23 never been forwarded to us so we weren't aware --
24 we were making information -- pardon me -- we
25 were making decisions, you know, in a vacuum
26 here, and that's why we were looking for
27 guidance.
- 28 And I will reiterate, once again, that I
29 believe the commission got it right in the end.
30 They didn't let Van Eekelens or Harjeet use the
31 delivery allocation. They made it go through the
32 proper channels when there's a surplus product
33 grown without delivery allocation, it can only be
34 marketed once everybody else achieves 100 percent
35 of delivery allocation. And that was a decision
36 that was made and it was the correct decision.
37 How they got there, I'm not 100 percent sure. I
38 wasn't parcel to all of the deliberations that
39 they had or all of the information in front of
40 the commission, but in the end, I believe that
41 they got it right.
- 42 Q The problem with getting in touch with Nupinder
43 and using the Bajwa Farms delivery allocation
44 with her agreement is that the funds would have
45 to go through Bajwa Farms and Harjeet didn't want
46 that and BCfresh didn't want that; correct?
- 47 A No, no. It had nothing to do with BCfresh

1 wanting it, Mr. Dalke. It had absolutely nothing
2 to do with it. Who gets paid for it is not our
3 decision. You know, at the end of the day, that
4 was a dispute that the commission had to resolve,
5 okay. So that had nothing with what BCfresh
6 wanted. I simply portrayed in that email the
7 facts as they were described to me and I
8 forwarded them to the commission. It had nothing
9 to do with what we wanted.

10 Q You're aware that, obviously, cabbage is a
11 regulated crop and you have to have a license to
12 grow cabbage; correct?

13 A You have to be a licensed producer with the BC
14 Vegetable Commission, correct.

15 Q And licensed to grow the regulated crop; correct?

16 A Certainly a license to market it, that's correct.

17 Q And to grow it; correct?

18 A That is correct. All producers should be
19 licensed prior to planting, that is correct.

20 Q So when Ms. Van Eekelen talked to you, or perhaps
21 when Harjeet talked to you, did you ask either of
22 them if they had a license?

23 A Well, they had a license -- they were registered
24 with the commission for growing other regulated
25 crops, so I wasn't sure how far that license --
26 exactly what their license was and what it
27 entailed, but they were already registered with
28 the BC Vegetable Commission.

29 Q At some point, you found out the Van Eekelens
30 didn't have a license to grow cabbage; correct?

31 A No, that was a matter for the commission. If
32 they determined that the Van Eekelens were the
33 owners of the cabbage, they would then be
34 required to get registered. That then became a
35 commission matter.

36 CNSL D. DALKE: Mr. Chairman, I note the time. I do
37 have some ground to cover still. I'm happy to
38 continue but it's been a long day for everyone, I
39 imagine, so.

40 CNSL N. MITHA: How much longer do you think you might
41 have, Dean?

42 CNSL D. DALKE: I anticipate it being another half
43 hour.

44 THE CHAIR: I think that may be a little long for
45 today.

46 Mr. Mitha?

47 CNSL N. MITHA: Yes, I'm just having a look at

**BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD
SUPERVISORY REVIEW HEARING**

**Videoconference
March 29, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**EXCERPT FROM PROCEEDINGS AT HEARING
(Day 12)
(Evidence of Murray Driediger)**

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2
Murray Driediger (a witness)
Cross-exam by Cnsl D. Dalke

1 witnesses today, by the end of the day. It would
2 be nicer if we could complete the day at
3 4:00 o'clock than 4:30. So thanks for that.
4 And, Mr. Driediger, you're there. I see
5 you. Mr. Dalke, just a reminder to Mr. Driediger
6 that he's still under oath, and he's your
7 witness.
8 CNSL D. DALKE: Thank you very much. And thank you
9 everyone for starting at 8:30 this morning so we
10 can get this done.

11
12 **MURRAY DRIEDIGER, a**
13 **witness, recalled.**
14

15 **CROSS-EXAMINATION BY CNSL D. DALKE (continued):**

16 Q So, Mr. Driediger, after your call with
17 Ms. Van Eekelen, you then immediately spoke to
18 Mr. Solymosi, and at that point you had presented
19 him with two conflicting views as to who the
20 cabbage belonged to. One view was that it
21 belonged to Harjeet Bajwa, the other was that it
22 belonged to Van Eekelen Enterprises. So you were
23 expecting the vegetable marketing commission to
24 figure out whose cabbage it was and engage in
25 some process and then report on that; correct?
26 A Correct.
27 Q And if Ms. Van Eekelen was correct in her
28 information to you that the cabbage belonged to
29 Van Eekelen Enterprises, then Harjeet had
30 seriously misled you by passing information on
31 that he knew you were going to pass on to the
32 vegetable marketing commission; correct?
33 A I'm not sure if he was intentionally misleading
34 me. I passed on the information as I thought
35 that it was being described to me, so that's all
36 I can testify to.
37 Q Right. But you'd agree that if someone is
38 providing information to you and they know you're
39 going to pass it on to a regulatory body, it's
40 very important that that information be correct?
41 A That's correct.
42 Q And someone intentionally providing misleading
43 information, that would be sort of the classic
44 definition of a bad actor, wouldn't it?
45 A Potentially.
46 Q Okay. So you received the commission's decision
47 on November 2nd from Mr. Solymosi; correct?

3
Murray Driediger (a witness)
Cross-exam by Cnsl D. Dalke

1 A Yes, I did.
2 Q You must have been very surprised by that
3 decision; right?
4 A The one on November 2nd?
5 Q Yeah.
6 A Surprised in what way?
7 Q Well, you were expecting the commission to say
8 whose cabbage it was; right?
9 A I'm not sure what you're referring to. Would you
10 like to put the decision in front of me so I
11 can --
12 Q I'll do that. Maybe that'll be helpful.
13 A Okay. Thank you.
14 Q Do you see this November 2nd email from
15 Mr. Solymosi at 1:26?
16 A Yes.
17 Q And you were copied on that; correct?
18 A Correct. I believe so. I think I was.
19 Q By this time you had told Mr. Solymosi -- you had
20 passed on information on the one hand that it was
21 Mr. Bajwa's cabbage and on the other hand that it
22 was Van Eekelen's cabbage, and you were expecting
23 a decision from the commission as to whose
24 cabbage it was. And then you get an email from
25 Mr. Solymosi with the subject line "2020/11/02
26 decision on Mr. Harjeet Bajwa's cabbage." So did
27 you take from that that the commission had
28 determined it belonged to Mr. Bajwa?
29 A That's a good question. Apparently, yeah, that
30 was the -- that was the outcome of this
31 particular notice, correct.
32 Q Right. But you were expecting the commission to
33 tell you whether it was Mr. Bajwa's cabbage or
34 Van Eekelen's cabbage?
35 A Correct. We needed to know who the cheque was
36 going to be written to.
37 Q Right.
38 A You know, and whose name we would be seeing the
39 cabbage under that was correct.
40 Q So when you got that email from Mr. Solymosi, did
41 you call him and say, what's going on here? I
42 thought you were going to tell us whose cabbage
43 it was. And you're saying it's Mr. Bajwa's
44 cabbage so you were -- maybe you were content to
45 proceed on that basis then. Is that what you
46 took from this?
47 A No, I'm not sure when this got straightened

5
Murray Driediger (a witness)
Cross-exam by Cnsl D. Dalke

1 whatsoever, Mr. Dalke. You have to understand,
2 you know, we had cabbage out there we had to get
3 to market. There's a number of ways where you
4 can bring cabbage -- bring a commodity to market
5 that's a regulated commodity if it doesn't have
6 delivery allocation. So it didn't make any
7 difference to us how that product was going to
8 get to market as long as the actual product that
9 was coming to market was coming from the proper
10 ownership and was going through the proper
11 channels as it was supposed to do.

12 It was irrelevant whether -- and in the end,
13 I'm a little puzzled by this because, you know,
14 Bajwa Farms didn't grow any cabbage. Their
15 delivery allocation was not used. So I'm not
16 sure where their beef is in this. If the cabbage
17 belonged to somebody else, I don't see where the
18 harm is here to Bajwa Farms. Where would be the
19 harm to them in this.

20 Q Well, we'll get to that. But in terms of whether
21 it made a difference to BCfresh or not, if
22 Harjeet Bajwa could use the Bajwa Farms delivery
23 allocation, then BCfresh could market this
24 cabbage right away instead of having to wait
25 through the market access process for those
26 who've grown without delivery allocation?

27 A Mr. Dalke, we did not need that cabbage. We did
28 not need that cabbage at that time. We had
29 plenty of cabbage. There was absolutely no rush
30 to bring this cabbage to market. It was not a
31 lot of volume here. I mean, this entire cabbage
32 supply, to put it in perspective, is about a
33 three and a half day supply to BCfresh. We had
34 sufficient cabbage to take us all the way to
35 February. This is -- you know, this is beginning
36 of November. So there's all kinds of time and
37 opportunity to get this decision right. So there
38 was no rush on our end to make this happen.

39 Q You don't agree that having cabbage that has a
40 delivery allocation is more valuable to the
41 grower and to BCfresh than cabbage that doesn't
42 have a delivery allocation?

43 A No, there's -- there is product that is brought
44 to market without delivery allocation. You know,
45 I wouldn't say it's common, but it happens, and
46 there's a mechanism for doing it. And we made it
47 very clear to the commission and to the other

1 me -- where the commission simply declines to get
2 involved in sorting out whose cabbage it was;
3 correct?
4 A Correct.
5 Q Right. So when you had competing stories between
6 Van Eekelens and Harjeet Bajwa, you expected the
7 commission to sort it out, and when Nupinder
8 Bajwa raises concerns about whose cabbage it is,
9 you simply ignored that and did what you could to
10 bring the Van Eekelen cabbage to market; correct?
11 A No, Mr. Dalke. You wrote us a letter along with
12 the commission alleging that somehow this was --
13 you know, there was fiduciary responsibility
14 between Mr. and Mrs. Bajwa. That was a matter
15 for the courts to sort out. It was certainly not
16 a matter for BCfresh to sort out. We were at
17 that point dealing with Van Eekelens. They had
18 told us they had grown the cabbage. We took them
19 at their word. The commission ultimately made a
20 decision in that regard, and we followed the
21 commission's direction.
22 Q Where was the commission's decision that the
23 cabbage belonged to Van Eekelen?
24 A Well, obviously, in the November the 3rd email
25 that you just put up bringing the market
26 allocation, it was within that email.
27 Q November 3rd email? I'm sorry. I didn't see a
28 November 3rd email.
29 A Well, that was the one -- you just put up a
30 document here a few minutes ago dated November
31 the 3rd.
32 Q This, the market -- the minutes of the BC
33 Vegetable Marketing Commission?
34 A No, the one on the 3rd.
35 Q This is --
36 A Yeah. So this one here -- this one here.
37 Q Sorry, yeah.
38 A That's February --
39 Q This one here November 3rd.
40 A Yes.
41 Q Okay.
42 A That one there established the fact that it was
43 Van Eekelen's cabbage, and that was the market
44 access request that we were referring to to bring
45 that cabbage to market.
46 Q Were any of the commissioners present for this
47 proceeding?

1 A No, they were not.
2 Q So it was just Mr. Solymosi?
3 A That's correct.
4 Q Okay. And it was just based on information that
5 you provided to him in this meeting?
6 A That's correct. Based on -- well, the
7 information I had advised the commission of prior
8 to this meeting.
9 Q I see.
10 A I think what happened is is when on November 2nd
11 when that decision came out, I had a feeling that
12 I called Andre and said, I -- I'm not quite
13 sure -- you forget about the fact that I advised
14 you that I had a discussion with Van Eekelens.
15 And I'm not quite sure whether he forgot about
16 it. He was quite busy with planting. It's a
17 very busy time of the year. This wasn't a
18 priority for anyone. It was just something that
19 was going on in the background. And, you know,
20 when the initial decision came out on the 2nd, I
21 believe I advised him I think you may have got
22 this wrong and you may have to do some further
23 due diligence on this.
24 Q And when you received our letter of November 6th,
25 you didn't say, hey, you might have got it wrong
26 again; you better do more due diligence; this
27 cabbage might, in fact, belong to Bajwa Farms and
28 Nupinder Bajwa?
29 A Mr. Dalke, I forwarded the letter to our legal
30 counsel, and I followed legal counsel's
31 instructions.
32 Q You were aware that Van Eekelens did not have a
33 licence to grow cabbage for the 2020 year;
34 correct?
35 A I was aware that Van Eekelens were a registered
36 producer of the commission. I wasn't aware that
37 they didn't have cabbage on the list.
38 Q You were aware on November 4th that they didn't
39 have a licence for cabbage; correct?
40 A Well, there was a license sent to them for this
41 once the decision was made, yes.
42 Q And --
43 A And they -- and they configured a license at that
44 time.
45 Q Okay. But that's not consistent with what the
46 general orders require. The general orders
47 require you to have a licence before you plan or

1 grow the crop; correct?
2 A That's the way it should be, correct.
3 Q So when you found out that the Van Eekelens
4 hadn't obtained a licence before they grew the
5 cabbage, did you go to Mr. Solymosi and say, hey
6 Mr. Solymosi, we've got someone here who's not
7 following the general orders; I hope you'll
8 investigate and do something about it?
9 A The matter was forwarded to the commission and
10 once a decision was made that the cabbage
11 belonged to Van Eekelens, they were sent, I
12 believe, a license form which they completed at
13 that time.
14 Q And you called Mr. Solymosi to smooth that
15 process along; correct?
16 A I'm sorry?
17 Q You called Mr. Solymosi -- you asked him to call
18 you. Pardon me. You see this email November 5th
19 from you to Mr. Solymosi?
20 A Can you scroll down so I can see what it's about,
21 please.
22 Q It has this enclosure.
23 A Yeah, so what happened was the license
24 application was sent to Van Eekelens and they
25 returned it to me rather than the commission, so
26 I forwarded it on to the commission.
27 Q Okay. That's not the usual course. You wouldn't
28 normally get involved in applying for licences
29 for growers; correct?
30 A No, but sometimes growers, they send back
31 licenses to us and we forward them to the
32 commission. It's not the first time it's
33 happened.
34 Q But you were certainly aware at that point that
35 they didn't have a licence to grow cabbage;
36 correct?
37 A I was aware at that point, correct.
38 Q And were you also aware that they didn't have a
39 CanadaGAP certificate for cabbage?
40 A They had a CanadaGAP certificate, Mr. Dalke.
41 Q For cabbage?
42 A I'm not sure if you understand how food safety
43 works and how CanadaGAP works. Would you like me
44 to walk through that process?
45 Q Well, I'm trying to stick to half an hour here.
46 So did you ever get -- did you ever get a
47 CanadaGAP certificate from Van Eekelens with