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IN THE MATTER OF THE NATURAL PRODUCTS
MARKETING (BC) ACT

AND

IN THE MATTER OF AN APPEAL TO THE
BRITISH COLUMBIA MARKETING BOARD
FROM A DECISION OF THE
BRITISH COLUMBIA EGG MARKETING BOARD
DATED APRIL 7, 1987

BETWEEN:

SAMSOM'S POULTRY FARM LTD.

APPELLANT

AND:

BRITISH COLUMBIA EGG MARKETING BOARD

RESPONDENT

REASONS FOR DECISION

Appearances: S. C. Kinhead
President, Samsom's Poultry Farm (1973) Ltd.

APPELLANT

B. Fraser, Legal Counsel
F. Krahn, Member, B.C. Egg Marketing Board
R. Green, Field Representative, B.C. Egg Marketing Board
J. Davidson, Credit Manager, B.C. Central Credit Union
P. Whitlock, Accountant, B.C. Egg Marketing Board

RESPONDENT

DATE OF HEARING

MAY 7-8, 1987

1. The matter before the British Columbia Marketing Board ("the Board") is an appeal by Samsom's Poultry Farm (1973) Ltd., the Appellant, from orders, actions and decisions of the British Columbia Egg Marketing Board, the Respondent, of April 7, 1987 which stipulates that Samsom's Poultry Farm (1973) Ltd., and Gregory Kinkead are in contravention of the British Columbia Egg Marketing Board's Standing Order in respect of non-payment of judgment and levies owing to the British Columbia Egg Marketing Board.
2. The Appeal was filed with the Board on March 23, 1987 and was heard in Richmond, British Columbia on May 7th and May 8th, 1987.
3. The Appellant was not represented by counsel and presented his own case. The Respondent was represented by counsel. Opportunity was given to call and cross-examine witnesses, to file documentary evidence, to present written submissions, and to make oral submissions on the facts and the law.
4. The Appellant claims that, in order to prevent the British Columbia Egg Marketing Board from destroying his livelihood as well as those of fourteen others, he is appealing the orders, actions and decisions of the British Columbia Egg Marketing Board on the following grounds:
 - (i) Breach by the British Columbia Egg Marketing Board of an agreement in March 1976.
 - (ii) Problems with the British Columbia Egg Marketing Board over shipments of surplus product to them, i.e. payment for product, redeclaring as surplus, dyeing of products, etc.
 - (iii) Failure of the British Columbia Egg Marketing Board to recognize his claim for a levy abatement in the face of a severe disaster in December of 1984 which involved the suffocation of some nine thousand pullets and laying birds.
5. In view of the judgment of the Honourable Judge Hamilton of the Supreme Court of British Columbia entered on December 4, 1986 against the Appellant, Samsom's Poultry Farm (1973) Ltd. in the amount of \$56,981.42 and against Gregory Kinkead in the amount of \$52,897.78 which together totalled \$109,879.20 in addition to the British Columbia Egg Marketing Board's costs of its proceedings against Samsom's Poultry Farm (1973) Ltd. and Gregory Kinkead, the Board considers it neither appropriate nor necessary to comment on this judgment. Moreover, it is obvious that this judgment already took into account the basis of the Appellant's present appeal as set out in 4 (i), (ii) and (iii).
6. In the matter of the non-payment of outstanding levies in the amounts of \$11,830.79 payable by Samsom's Poultry Farm (1973) Ltd. and \$11,830.79 payable by Gregory Kinkead as at March 31, 1987 for a total of \$23,661.58, the Board directs that these outstanding levies must now be paid in accordance with the British Columbia Egg Marketing Scheme. In

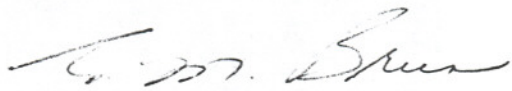
fairness to the British Columbia Egg Marketing Board and all other egg producers participating in the Scheme, the Board has found no justification for either waiving or deferring payment of these outstanding levies.

7. With respect to allegations of fraud in the British Columbia Egg Board's handling of the accounts of Samsom's Poultry Farm (1973) Ltd., the Board has found that the British Columbia Egg Marketing Board has fully discharged its obligations and responsibilities to Samsom's Poultry Farm (1973) Ltd. and has kept it informed of its position at all times.
8. In view of the findings in (7) above, the Board has not identified in the evidence presented any evidence of proven irregularities in the handling or management by the British Columbia Egg Marketing Board of the Samsom's Poultry Farm (1973) Ltd. account or financial affairs. Consequently, the Board has not found any legitimate basis on which Samsom's Poultry Farm (1973) Ltd. could support its claim of the British Columbia Egg Marketing Board's indebtedness to it in the amount of \$65,000.
9. The Board found it quite unusual that the basis of the appeal from Samsom's Poultry Farm (1973) Ltd. was dealt with in some detail in previous hearings and court cases, yet Samsom's Poultry Farms (1973) Ltd. has allowed so many years to elapse before it lodged its allegations of irregularities in the handling of its financial affairs by the British Columbia Egg Marketing Board.
10. Quite to the contrary, the Board maintains the view that the British Columbia Egg Marketing Board has been quite tolerant and patient of the delinquency of Samsom's Poultry Farms (1973) Ltd. on its handling of its indebtedness and obligations to the British Columbia Egg Marketing Board. The Board would suggest, however, that closer liaison be maintained between the British Columbia Egg Marketing Board and especially producers who find themselves in financial difficulties and are in need of counselling.
11. The Board wishes to recommend for the consideration of both Samsom's Poultry Farm (1973) Ltd. and the British Columbia Egg Marketing Board that in full consultation with the Appellant's creditors, the B.C. Central Credit Union and Terrace and District Credit Union, they get together and consider the option of selling a part of the quota allocated to Samsom's Poultry Farms (1973) Ltd. the proceeds from which should go towards the payment of the outstanding indebtedness of Samsom's Poultry Farm (1973) Ltd. as an approach to the financial difficulties in which it now finds itself. In this connection, the Boards strongly recommends that Samsom's Poultry Farm (1973) Ltd. should be left with an adequate amount of quota that would constitute an economically viable size of egg operation which should also remain in the Terrace area to serve the needs of the Northwest Region of the Province.

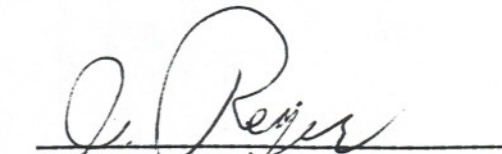
12. In virtue of the foregoing, the Board strongly urges the Appellant to seek to reestablish itself as a production unit in good standing with the British Columbia Egg Marketing Board so that it may either continue as a viable production enterprise, or in the event that it chooses to dispose of its quota allocation or egg production enterprise, which has acquired substantial value, it may be permitted to do so under the British Columbia Egg Marketing Scheme. Towards this end, the Board also urges the British Columbia Egg Marketing Board to review the rate of interest that it charges on outstanding producers' indebtedness thereby assuming a leadership role in persuading the credit institutions to lower their commercial rates to producers.
13. Having considered all of the evidence and submissions at the hearing of this appeal, the Board finds in favour of the Respondent, the British Columbia Egg Marketing Board. The Board urges the British Columbia Egg Marketing Board, however, to withhold its proceedings with the course of action set out in (2) and (3) of the excerpt from Minutes of a Meeting of the British Columbia Egg Marketing Board held on Friday, April 3, 1987 in accordance with Section 17 of the Standing Order, pending exploration of all the possibilities outlined in paragraph 11 above.
14. In accordance with the Board's Rules of Appeal, the whole of the Appellant's deposit shall be forfeit.

Dated this 8. day of July, 1987 in Vancouver, British Columbia.


C. E. Emery, Chairman


E. M. Brun, Vice-Chairman


O. Austring, Member


J. Reger, Member