



# BC Farm Industry Review Board

## FINAL TERMS OF REFERENCE

### Vegetable Marketing Commission

#### Allegations of Bad Faith and Unlawful Activity

The BC Farm Industry Review Board (“BCFIRB”) has ordered a supervisory review process, pursuant to s. 7.1 of the *Natural Products Marketing (BC) Act* (the “Act” or the “NPMA”), into allegations of bad faith and unlawful activity raised in court filings alleging misfeasance of public office by members and staff of the BC Vegetable Marketing Commission (“Commission”). The purpose of the supervisory review is for BCFIRB to determine whether these allegations can be substantiated and what resulting orders or directions may be required.

Given the gravity and potential implications of the allegations, the supervisory review will take the form of an oral hearing. BCFIRB recognizes the need to proceed with this matter expeditiously in order to ensure public confidence in the administration of the regulated vegetable industry in British Columbia.

As per BCFIRB’s June 18, 2021 decision<sup>1</sup> the Final Terms of Reference for this supervisory review is as follows:

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<sup>1</sup> 2021 June 18. BCFIRB. In the Matter of the Natural Products Marketing (BC) Act and Allegations of Bad Faith and Unlawful Activity: Final Terms of Reference and Draft Rules of Practice and Procedure.

## **Scope and Focus**

BCFIRB's supervisory review is directed by two objectives:

- ensuring effective self-governance of the Commission in the interest of sound marketing policy and the broader public interest; and,
- ensuring public confidence in the integrity of the regulation of the BC regulated vegetable sector.

The Supervisory Review will consider the following allegations, which form the terms of reference for the supervisory review:

1. The Commission's exercise of powers to direct producers to agencies and the issuance of new agency licenses in a manner that is designed to further the self-interest of members of the Commission, including:
  - a. Self-interested prevention of new agencies from entering the British Columbia market to further the Commission members' economic interests, by both failing to adjudicate agency licence applications, and preventing the granting of additional production allocation to growers thought to be aligned with applicants;
  - b. Collusion by members to "vote swap" on agency applications; and,
  - c. Self-interested direction of producers to agencies in which the Commission members have a financial or personal interest.
2. Commission members and staff exercising or failing to exercise statutory duties in bad faith, for improper purposes, and without procedural fairness due to a personal animosity toward at least one producer, specifically Prokam.

## Participants and Counsel

The following counsel and individuals will be represented at the hearing. The panel retains its discretion to allow additional applications to participate if it determines that other individuals' or entities' interests are likely to be affected by the supervisory review.

### Hearing Counsel

Nazeer T. Mitha, Q.C.  
[nmitha@harrisco.com](mailto:nmitha@harrisco.com)

### Review Panel Counsel

Mark G. Underhill  
[munderhill@arvayfinlay.ca](mailto:munderhill@arvayfinlay.ca)

| Participant   | Legal Counsel  | Email Addresses  |
|---|--|--|
| MPL British Columbia Distributors Inc. (MPL) ( <b>To be confirmed</b> ) | Morgan Camley<br>David Wotherspoon<br><br>Matthew Sveinson | <a href="mailto:morgan.camley@dentons.com">morgan.camley@dentons.com</a><br><a href="mailto:david.wotherspoon@dentons.com">david.wotherspoon@dentons.com</a><br><br><a href="mailto:matthew.sveinson@dentons.com">matthew.sveinson@dentons.com</a>                     |
| Prokam Enterprises Ltd (Prokam)   | Claire Hunter, Q.C.<br>Ryan Androsoff<br>Aubin Calvert     | <a href="mailto:chunter@litigationchambers.com">chunter@litigationchambers.com</a><br><a href="mailto:randrosoff@litigationchambers.com">randrosoff@litigationchambers.com</a><br><a href="mailto:acalvert@litigationchambers.com">acalvert@litigationchambers.com</a> |
| Bajwa Farms Ltd.  | Dean Dalke   | <a href="mailto:dean.dalke@dlapiper.com">dean.dalke@dlapiper.com</a>   |
| BC Vegetable Marketing Commission                                       | Robert Hrabinsky   | <a href="mailto:rhrabinsky@ahb-law.com">rhrabinsky@ahb-law.com</a>   |
| André Solymosi  | Ravi Hira, Q.C.  | <a href="mailto:RHira@hilarowan.com">RHira@hilarowan.com</a><br><a href="mailto:AHall@hilarowan.com">AHall@hilarowan.com</a><br><a href="mailto:RNHira@hilarowan.com">RNHira@hilarowan.com</a><br><a href="mailto:MNicholls@hilarowan.com">MNicholls@hilarowan.com</a> |
| John Newell, Mike Reed, Corey Gerrard, Blair Lodder, Peter Guichon      | Kenneth McEwan, Q.C.<br>William Stransky                   | <a href="mailto:kmcewan@mcewanpartners.com">kmcewan@mcewanpartners.com</a><br><a href="mailto:wstransky@mcewanpartners.com">wstransky@mcewanpartners.com</a>   |
| BC Fresh Vegetables Inc (BC Fresh)                                      | Robert (Rob) McDonell                                      | <a href="mailto:rmcdonell@farris.com">rmcdonell@farris.com</a>   |

## **NEXT STEPS**

The panel anticipates the following supervisory review steps will proceed in accordance with the following revised expedited schedule:

- |                 |   |
|-----------------|---|
| June 25, 2021   | Deadline for written submissions on interim orders, participation (MPL), and draft rules of practice and procedure. |
| June 30, 2021   | Pre Hearing Conference  |
| July 2021 (TBD) | BCFIRB to issue decision on interim orders and rules of practice and procedure                                      |

It is the Panel's intention to now hold the oral hearing in late summer or early fall 2021.

**Please be advised that all written submissions will be posted to the BCFIRB website, unless there is a request for submissions to be made *in camera*.**

If you have any questions regarding this supervisory review, please contact Wanda Gorsuch via email at [Wanda.Gorsuch@gov.bc.ca](mailto:Wanda.Gorsuch@gov.bc.ca).