

January 21, 2022

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By Email

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Our file 1041.001

BC Farm Industry Review Board
1st Floor, 780 Blanshard Street
Victoria BC V8W 2H1

Attention: Wanda Gorsuch

Dear Sirs and Mesdames:

Re: Supervisory Review into Allegations of Bad Faith and Unlawful Activity

1. I write this letter in response to the notice of application of Prokam Enterprises Ltd. (“Prokam”) dated January 17, 2022 and the letter from counsel for MPL British Columbia Distributors Inc. (“MPL”) dated January 19, 2022.
2. Below I describe my role as hearing counsel and provide a summary of the steps I have taken in my investigation. Following that, I provide a response to each of Prokam’s and MPL’s submissions, in turn.

Role of Hearing Counsel

3. My role as hearing counsel in this Supervisory Review is established under the BC Farm Industry Review Board’s (BCFIRB) June 18, 2021 Terms of Reference for this Supervisory Review and the Final Rules of Practice and Procedure (July 9, 2021, and amended August 13, 2021).
4. The Terms of Reference provide:

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. [Emphasis added.]
5. Paragraph 2 was amended at the direction of the Review Panel on June 18, 2021, in response to Bajwa Farms’ request to include an examination of whether members of the Dhillon family have been treated unfairly as a result of animus toward Mr. Dhillon and Prokam as part of this review.
6. In specific response to paragraphs 57 and 58 of Prokam’s application, I acknowledge that I inadvertently referenced only the Initial Terms of Reference and not the Amended Terms of Reference in my December 24, 2021, letter summarizing my investigation to hearing participants. However, the Terms of Reference, as amended (“FTR”), as well as the Rules of Practice and Procedure, have informed my investigations.
7. In this supervisory review process, Chair Donkers set out the final scope and focus of the review in his decision dated June 18, 2021.
8. As hearing counsel, my role is to conduct an investigation into matters described in the FTR. In conducting the investigation, I am necessarily reviewing allegations made by the parties within the scope of the FTR.
9. Stated another way, as hearing counsel, my role is to investigate the allegations which have been made by the parties. It is not my role to independently investigate matters not alleged by any party or which fall outside of the scope of the FTR unless relevant matters come to my attention during the course of the investigation.
10. Therefore, my investigation was framed by the allegations made by the parties, which are within the scope of the FTR.

Summary of Investigation Process

11. Rule 1 required complainant participants raising allegations within the FTR to provide their initial list of witnesses with a detailed statement of the evidence each witness would provide and all relevant documents.
12. On July 19, 2021, MPL indicated that it did not intend to participate in the supervisory review. No witness list was provided. No documents were produced.

13. On July 23, 2021, I received Prokam's letter providing context and a list of 18 proposed witnesses and those witnesses' "will-say" statements. Prokam also provided 4513 pages of document disclosure.
14. On July 23, 2021, I received Bajwa Farm's submission and 28 pages of document disclosure.
15. On August 27, 2021, I received documents from MPL pursuant to the Review Panel's August 13, 2021 Document Disclosure Order. MPL reiterated it was not participating in the Supervisory Review.
16. On October 26, 2021, the British Columbia Vegetable Marketing Commission (BCVMC) provided a Statement of Position and initial documents. The BCVMC indicated it did not intend to call any witnesses, but the Chair was available to be interviewed.
17. On November 4, 2021, I received BCFresh's letter indicating it had reviewed the proposed witnesses provided by other parties and did not have additional names to add. BCFresh had reviewed the documents provided by Hearing Counsel (complainant documents) and had searched for and had not located other documents that might be responsive to the Terms of Reference. It offered to conduct further searches if Hearing Counsel or other parties identify a particular document or documents.
18. On November 12, 2021, I received a Statement of Position from Andre Solymosi and the same documents produced by the BCVMC, with the addition of 8 documents related to MPL.
19. On December 3, 2021, in follow up to Mr. Mastronardi's interview, MPL disclosed certain documents and identified certain other documents in the possession of Andre Solymosi, consultant Dawn Glyckherr, Steven and John Newell and/or Jeff Madu, which it thought should be requested through the investigation.
20. On December 8 and 16, 2021, I received letters from counsel for the Commissioners with Notice of Civil Claim hearing process updates and initial documents.
21. On January 7, 2022, MPL gave notice of its intention to participate in the supervisory hearing.

Application of Rules

22. The Rules do not require hearing counsel to interview all the individuals identified by the participants. Rule 3 gives hearing counsel the sole discretion to determine what further investigations or interviews are appropriate. To the extent that a participant disagrees with hearing counsel, Rule 30 allows a participant to apply to the Review Panel for an order requiring that the witness be called if the witness' evidence is necessary.

23. Further, Rule 18 gives hearing counsel “the primary responsibility for collecting and presenting all of the evidence counsel determines is relevant at the oral hearing, ensuring an orderly and fair hearing, and representing the public interest throughout the process.”

Interviews

24. The initial focus of my interviews was to ascertain the factual basis for Prokam and MPL’s allegations of misfeasance identified in their Notices of Civil Claim, the issues identified in Prokam’s July 23, 2021 letter, and Bajwa Farm’s allegations of unfair treatment as result of animus towards Bob Dhillon and Prokam as identified in the FTR.
25. These interviews, coupled with my review of the documents provided and responses to questions asked after the interviews and responses provided, formed the iterative basis of my decisions as to whom I needed to interview in the investigation process.
26. As part of my investigations, I interviewed the following individuals:
 - a. August 30, 2021: Prokam representatives, Bob Dhillon, Bob Gill; counsel Claire Hunter and Ryan Androsoff;
 - b. September 28, 2021: Bajwa Farms representatives, Nupinder Bajwa, Mandi Bajwa; counsel Dean Dalke and Sam Bogetti;
 - c. November 23, 2021: MPL representatives, Paul Mastronardi; counsel David Wotherspoon and Christy Lee;
 - d. November 29, 2021: Vegetable Commission General Manager Andre Solymosi; counsel Ravi Hira;
 - e. December 8, 2021: former IVCA general manager, Brian Meyer;
 - f. December 8, 2021: Commissioner, Corey Gerrard; counsel William Stransky;
 - g. December 8, 2021: BCFresh representative, Murray Driediger; counsel Robert McDonell;
 - h. December 8, 2021: Former Commissioner, Peter Guichon; counsel William Stransky;
 - i. December 8, 2021: Commissioner, Blair Lodder; counsel William Stransky;
 - j. December 9, 2021: General Manager of Vancouver Island Farm Products, Jaymie Collins;
 - k. December 14, 2021: Commissioner, John Newell; counsel William Stransky;

I. December 14, 2021: Former Commissioner, Mike Reed; counsel William Stransky.

27. In my October 15, 2021 response to process concerns raised by Prokam in a letter dated September 27, 2021, I explained as follows:

First, it is my view that Prokam's conduct, and the findings of both the Commission and the BC Farm Industry Review Board (BCFIRB) regarding that conduct, are at the heart of this review. The very serious allegations which gave rise to this review are that members and staff of the Commission have improperly and maliciously acted with an intent to harm the interests of the complainant parties, including Prokam and MPL British Columbia Distributors Inc. Thus, the motivation or intentions of Commission members and staff are squarely in issue. In turn, whether the actions and decisions of the Commission may have been precipitated by the conduct of those parties, as opposed to a malicious intent to injure, is a central question for the panel to consider.

Similarly, the extent to which certain arguments were raised in previous proceedings may also be relevant to the motivation and intentions of the Commission. If certain arguments were put before the Commission, and were potentially ignored or rejected because of malice, that will need to be considered by the panel. Conversely, if the arguments relied on now were not advanced before the Commission, that informs the panel's consideration of what the Commission knew or ought to have known at the time of the alleged misfeasance.

Moreover, the extent to which certain matters were or might have been raised in previous BCFIRB and court proceedings also raises the principle of finality in decision making. In determining what issues should be canvassed in this review, or the evidence that should be led, I need to be mindful of the need for procedural fairness and avoiding duplicative proceedings.

Finally, I note that to the extent you disagree with my approach, you can apply to the panel for a ruling on these matters, as Mr. Donkers will be the final arbiter of what issues and evidence will be before him.

28. In my letter to hearing participants dated December 24, 2021, I summarized my investigation process, prepared and distributed interview reports of all those interviewed to the parties, summarizing my questions and responses to these allegations and any follow up. Through oversight I acknowledge that Mr. Mastronardi's interview report was not disclosed but that was rectified. I also advised who I intended to call as witnesses in the upcoming hearing. Documents received were uploaded and available through a link given to all participants.

29. Of the 18 witnesses identified by Prokam in their July 23, 2021 letter, I interviewed Jaymie Collins, Brian Meyer, Bob Gill, Bob Dhillon and Murray Driediger. I made efforts to contact Lillian Posch but was not successful.

30. Based on my interviews with these witnesses and my review of the documents, my impression was that the "will say" statements provided by Prokam for these witnesses did not accurately reflect the evidence I heard. I note that Prokam identified that certain "will say" statements were

in fact prepared without the benefit of speaking to the prospective witnesses. This is also confirmed in Prokam's submission: see paragraph 31.

31. In my December 24, 2021 letter, I set out a brief rationale for why I chose not to call certain witnesses. To assist the Panel Chair, I explain my decisions more fully below.

Response to Prokam's Submissions

32. The allegations made by Prokam are set out in its Notice of Civil Claim ("NOCC").

NOCC

33. It is noteworthy that the allegations made in the NOCC are made as against only Messrs. Guichon and Solymosi.
34. Part 3 of the NOCC sets out the allegations made against each of Mr. Guichon and Mr. Solymosi. A summary of the allegations against Mr. Guichon are that:
 - a. Mr. Guichon exercised his power as a Vice Chair of the Commission to approve the Cease & Desist Orders ("C&D Orders") in bad faith and for improper purposes and to advance his own economic interests;
 - b. Mr. Guichon knew or was wilfully blind to the fact that the Export Minimum Pricing Orders were invalid and that there was no lawful basis for the issuance of the C&D Orders;
 - c. In exercising his power as a member and Vice Chair of the Commission to participate in the Show Cause Decision, he exercised his statutory power primarily by malice he felt for Prokam and its principal;
 - d. Mr. Guichon was ineligible to participate in the Show Cause Decision or the discussions and deliberations preceding it and by participating in the Show Cause Decision and the preceding discussions and deliberations, he conducted himself unlawfully knowing that his conduct was unlawful;
 - e. Mr. Guichon's participation in the Variation Decision was, like his participation in the Show Cause Decision, knowingly unlawful.
35. A summary of the allegations against Mr. Solymosi are that:
 - a. In conducting the investigation against Program and others, Mr. Solymosi made pre-determinations, acted in bad faith and for an improper purpose to create an evidentiary record he believed was necessary to achieve the objective of finding that Prokam had violated the Export Minimum Pricing Orders at the Show Cause Hearing;

- b. Mr. Solymosi engaged in various unlawful breaches of procedural fairness that he knew were unlawful or was reckless or wilfully blind as to their own lawfulness;
- c. Mr. Solymosi was reckless or wilfully blind to the fact that the Export Minimum Pricing Orders were invalid because of his failure to cause the Commission to adhere to the Registration and Gazetting Requirements.

July 23, 2021 Letter

- 36. For the purposes of this Supervisory Review, Prokam set out its allegations in its July 23, 2021 letter. Prokam describes four main topic areas as follows:
 - a. The state of the actual or constructive knowledge of Messrs. Guichon and Solymosi of the requirement that the Commission “gazette” and register orders in order to validly regulate interprovincial trade;
 - b. Evidence that Mr. Solymosi’s investigation of Prokam was motivated by and carried out with the improper purpose of creating an evidentiary record consistent with his predetermination that Prokam was a “rogue producer”;
 - c. Evidence that Mr. Guichon was motivated by personal self-interest or the interests of BCFresh or its growers in participating in decisions adverse to Prokam;
 - d. BCFresh commissioners were motivated by self-interest in seeking to avoid or delay the licensing of a second lower mainland storage crop agency.
- 37. Prokam clarified that the first three above-noted areas relate to the Prokam Claim, while the fourth area relates to the terms of reference and perhaps the Mastronardi Claim.
- 38. Finally, in a letter dated September 27, 2021, counsel for Prokam, in commenting on the nature of the interview conducted of her client, noted that: “the focus of the terms of reference is squarely on the conduct of the Commission members and staff”.
- 39. Prokam seeks leave to call various witnesses. At page 9 of its application, it seeks to call Jim Collins, Tom Demma, Alf Krause, George Leroux and John Walsh to discuss the state of the actual or constructive knowledge of Messrs. Guichon and Solymosi of the requirement that the Commission gazette and register orders in order to validly regulate interprovincial trade.
- 40. It is noteworthy that Mr. Solymosi has acknowledged and admitted that he was aware of the requirement that the Commission gazette and register orders.
- 41. It is also noteworthy that in his submission dated January 17, 2022, Mr. Hrabinsky, as counsel for the Commission, states, *inter alia*:

- a. However, the existence of these Gazetting requirements, and the Defendants' knowledge of them, are not (and never were) material issues;
 - b. For the purposes of the present proceeding, the Commission expressly acknowledges that orders requiring federal legislative authority needed to be "Gazetted" prior to the amendment of the *British Columbia Vegetable Order* on December 23, 2020.
42. As pointed out by Mr. Hrabinsky, at paragraph 48 of its appeal decision dated February 28, 2019, BCFIRB noted that:

But in order to actually avail itself of this authority under the federal legislation, the Commission is required to comply with the Statutory Instruments Act. This is accepted by the Commission, which stated in its submission, "in practical terms, this means that any order made by the Commission which depends on delegated federal legislative authority will only come into force after the order has been 'Gazetted'".

43. In summary then, the state of the actual or constructive knowledge of Messrs. Guichon and Solymosi about the requirement to "gazette" and register is admitted. As a result, as hearing counsel, I concluded that the witnesses that Prokam wishes to call to provide this evidence were unnecessary. The witnesses cannot add anything to the admission already made.
44. One example that Prokam provides at paragraph 36 of its submission is that Mr. Walsh wrote to the Commission including Mr. Solymosi and Mr. Guichon in August 2017, raising concerns about the Commission's authority in initiating a new minimum price set for producer exports. That email in question will be in evidence at the hearing. The responses to that email and how it was dealt with will also be in evidence at the hearing. Therefore, Mr. Walsh's evidence that he sent the email is not necessary.
45. Leaving aside the parliamentary proceedings privilege issue raised by the Vegetable Commission, in my view, calling multiple witnesses (Jim Collins, Tom Demma, Rob Hrabinsky, George Leroux, David Taylor) to speak to the actual or constructive knowledge of Commission staff or members of gazetting requirements is unhelpful given that I have interviewed both Mr. Guichon and Mr. Solymosi and have their actual evidence. They can be cross examined on their actual knowledge and should a factual dispute arise, the Panel Chair can address that dispute through rulings made in the appropriate context within the proceeding.
46. Prokam seeks leave to call Terry Michell, Lillian Posch, John Walsh and Alf Krause to give evidence about Mr. Solymosi's investigation.
47. The key evidence identified in the proposed "will say" statement of Mr. Krause is that he and Mr. Solymosi attended an October 3, 2017, meeting with IVCA representatives to gather evidence against Prokam and Thomas Fresh.

48. There are other witnesses who have been interviewed and who will give testimony about the meeting in question. However, as Prokam considers that Mr. Krause may have relevant evidence, hearing counsel will contact Mr. Krause promptly to obtain his evidence on this issue.
49. Concerning Mr. Michell, Prokam alleges that he too may provide evidence about Mr. Solymosi's investigation, and in particular his meetings with representatives of IVCA. There are other witnesses who can provide this evidence. I did not speak to Terry Michell given that I interviewed Brian Meyer.
50. As with Mr. Krause, hearing counsel will promptly contact Mr. Michell to obtain his evidence on this issue.
51. Concerning Lillian Posch, the key evidence from her concerns a November 7, 2017, agency managers meeting. There is already significant oral and documentary evidence about this meeting. There is no requirement for Ms. Posch to be called.
52. I have interviewed three agency managers and provided their interview reports. Based on those interviews, and my review of the documents, I determined it was not necessary to continue trying to speak with Ms. Posch. I did not speak with Shelly Harris of Fraserland Organics as I felt it was unnecessary duplication having already spoken to three agency managers.
53. Finally, concerning Mr. Walsh, the "will say" statement for him relates to matters that are entirely collateral to the issues for this review even as defined by Prokam. They relate to the alleged relationship between BCFresh and the Commission *prior to 2012*. I did not interview Mr. Walsh as in my view historical allegations of the nature set out in his "will say" statement are of limited relevance to the matters identified in the FTR. Further, Mr. Walsh was able to speak to many of his concerns in the appeal of Amending Order 43 and the three BCFIRB supervisory processes involving Vancouver Island. The Review Panel will have the benefit of BCFIRB's findings and reasons in that appeal and supervisory processes. To the extent Mr. Walsh would testify regarding Commission knowledge of the gazettement requirement, I have addressed the relevance of that sort of testimony above.
54. To the extent Jeaven Hothi or Bill Zylmans would speak to matters related to Amending Order 43, that matter was previously canvassed before BCFIRB in the appeal noted above and has limited connection to the matters identified in the FTR.
55. Given my decision not to interview either Mr. Walsh or Mr. Hothi, I similarly concluded it was unnecessary to interview former Vegetable Commission general manager Jim Shiell or former Chair, David Taylor regarding the events related to Amending Order 43. This evidence is unnecessarily duplicative of current staff and Commission members and was previously considered by BCFIRB in the earlier appeal.

56. Further, Prokam seeks to call Messrs. Walsh, Leroux and Hothi concerning the issue that BCFresh commissioners were motivated by self-interest in seeking to avoid or delay the licensing of new entrant potato growers and/or a second lower mainland storage crop agency. The “will say” statements of these individuals purport to suggest they will give evidence on this issue; however, all of the suggested evidence is significantly dated. There is other more relevant and recent evidence about these issues that will be called at the hearing. The dated evidence of these witnesses is not relevant or necessary.
57. At page 19 of its submission, Prokam seeks an order for various categories of documents. I addressed the request for all of these documents in my letter dated January 5, 2022. Since that date, I have made further requests for certain categories of documents and have received responses, copies of which have been uploaded to the share file for all parties.
58. I will respond to some of the comments made by counsel for Prokam about the relevancy of certain documents. For example, at paragraph 75, it is argued that the fact that Mr. Solymosi has admitted to knowledge of the registration and gazetting requirements does not render documents that go to this issue irrelevant. With respect, I disagree with counsel for Prokam. With the admission, the documents are not in my view relevant. Having said that, Prokam will have the opportunity to cross-examine Mr. Solymosi. If it can establish relevance of the documents in the course of cross-examination, the Review Panel can address the need for those documents at that time
59. At paragraphs 77 and 78, counsel for Prokam argues that the documents about registration and gazetting are necessary to establish that export minimum pricing orders required the exercise of federally delegated legislative authority and that the registration and deciding requirements had not been complied with in respect of the export minimum pricing orders. Again, given the admissions made, as hearing counsel, it is my view that the documents are not necessary. Messrs. Solymosi and Guichon can be cross-examined about these issues, and to the extent that Prokam can establish the relevance or need for those documents in the course of cross-examination, the Review Panel can deal with such at that time.
60. Prokam also raises various requests for other documents and suggests that certain parties have not complied with their obligation to provide documents or to provide further better description of documents. In considering these issues, the context must be kept in mind. This is not a civil trial; rather, the stated purpose of the Supervisory Review is for BCFIRB to determine, in an expeditious manner, whether the allegations can be substantiated and what resulting orders or directions may be required. In other words, there must be a balancing between a fair and reasonable process and all the trappings of an adversarial trial process.
61. Further, and importantly, the nature of the complaints raised by Prokam in these proceedings is, as stated by counsel for Prokam, “squarely on the conduct of the Commission members and staff”. The only Commission members and staff against whom Prokam has made direct complaints

are Messrs. Guichon and Solymosi. In my view, the extent and nature of the documentary requests being sought by Prokam are far more extensive than necessary to address the key issues which are before this Review Panel.

62. It is also important to note that many thousands of documents have been produced. This is not a case where there is a paucity of documents. Having said that, as stated above, to the extent that the relevance of other documents which have not been produced can be established during the course of the hearing, the Review Panel can deal with such requests at that time.
63. In summary, there is significant documentary evidence on the allegations advanced. Further, a detailed investigation has been conducted of the key persons involved and interview reports of the investigation have been produced to all parties.
64. Finally, Prokam seeks an adjournment of the hearing. hearing counsel opposes an adjournment. Other than the possible interviews of a couple of witnesses that I propose to now undertake, this matter can proceed to hearing. It is in the public interest for this hearing into serious allegations of wrongdoing against public officials to proceed. If during the course of the hearing it becomes necessary to call other evidence or obtain further documents, that can be dealt with by the Review Panel at the time.

Response to MPL's Submissions

65. First, I take no position on MPL's request to participate in the Supervisory Review hearing.
66. In its letter dated January 19, 2022, MPL applies for various relief:
 - a. Leave to lead the evidence in chief of Paul Mastronardi;
 - b. An extension of time to apply for leave to call witnesses related to the submission made by counsel for Prokam;
 - c. An extension of time for MPL to provide its list of proposed witnesses and will say statements;
 - d. An extension of time to apply for leave to call witnesses listed in MPL's list of witnesses;
 - e. Leave for MPL to call and lead the evidence in chief of Trevor Jones and Ravi Cheema.
67. Below, I provide hearing counsel's response to each of the above, in order.
68. In response to paragraph a, I take no position on the issue.

69. Concerning the request at paragraph b above, these have been dealt with in the response to Prokam, above.
70. In response to paragraphs c, d and e, MPL has not established the relevance of any of this information or these witnesses. MPL was interviewed on November 23, 2021 concerning the allegations it was raising about the Commission and Commission members. MPL provided some evidence, but chose to claim privilege over various other evidence. In other words, MPL stated it had evidence to establish the allegations it had made, but because that evidence was obtained by counsel's interviews and work, MPL chose to claim privilege over that evidence.
71. Concerning the interview of November 23, 2021, to be clear, Mr. Mastronardi did not make a request that I interview certain individuals during his interview although he mentioned Ravi Cheema, Jeff Madu and Steven Newell. MPL's December 3, 2021 letter requested that I seek certain documents from Steven Newell, Jeff Madu, Dawn Glyckherr at which point in time, MPL was not a participant in the supervisory process and was taking the position that documents in its possession that may be relevant to the MPL's allegations contained of misfeasance were in fact privileged and would not be disclosed.
72. I have not spoken to these individuals and have no position on the relevance of their evidence.

Outstanding Privilege Issue

73. By letter dated January 7, 2022, Ms. Basham QC advised hearing counsel that MPL intends to participate in the Supervisory Review and asked what hearing counsel needed from MPL.

74. On January 12, 2021, I wrote to MPL through Ms. Basham as follows:

I will leave the issue of MPL's participation in the supervisory review to the Review Panel. However, in any event of MPL's formal participation in the supervisory review, there remains an outstanding issue with respect to a privilege claim being asserted by MPL. As I indicated in my December 24, 2021, investigation update, I intend to call Paul Mastronardi of MPL as a witness at the upcoming hearing. I can also advise that I intend to ask Mr. Mastronardi to inform himself and answer questions about the facts upon which MPL's civil claim is based. I understand from my recent interview that MPL takes the position that his knowledge of at least certain of those facts is subject to privilege because it arose out of communications with legal counsel. I do not agree with that position as I am seeking Mr. Mastronardi's knowledge of facts which have an independent existence outside of the solicitor-client relationship.

Please confirm your position on whether you will be maintaining the claim of privilege that was asserted during the interview, and the basis for that claim. As required, I will then seek any necessary rulings from the panel.

75. Counsel for MPL responded by asking what information was previously requested over which privilege is claimed.

76. By letter dated January 16, 2022, I wrote a detailed letter to counsel for MPL setting out the specific questions which were previously asked of MPL on November 23, 2021, and over which MPL had claimed privilege. I requested that MPL now respond to these questions.
77. To date, MPL has not yet responded to my letter of January 16, 2022. To date, MPL continues to maintain a solicitor's brief privilege claim over documents which formed the basis of some of the allegations in their Notice of Civil Claim.
78. I oppose MPL's application for an adjournment because it will delay matters for all the parties and such delay is not in the public interest. MPL has known for some time about this Supervisory Review and has had many opportunities to provide possible witnesses, evidence and documents. Until recently, MPL chose to participate only in response to my requests: it provided some documents and attended briefly at an interview.
79. At the eve of the hearing, MPL now wishes to change the nature of its participation. MPL's late change of position and failure to provide particulars of the allegations it has made (even at this stage) should be considered in determining whether or not to grant the adjournment.

All of which is respectfully submitted,

Yours very truly,
Mitha Law Group

Per:



Nazeer T. Mitha, QC *
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NTM/ev

Enclosures

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